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## ENVIRONMENTAL ASSESSMENT

REDUCTION OF PUBLIC USE AND OVER-THE-SAND VEHICLE IMPACTS  
AT HOLGATE UNIT, BARNEGAT DIVISION, EDWIN B. FORSYTHE  
NATIONAL WILDLIFE REFUGE.

The proposed action would restrict public use and the operation of over-the-sand vehicles to provide additional protection to the fragile barrier beach/dune ecosystem, the nesting sites for piping plovers, least terns and black skimmers, and the piping plover feeding areas.

U.S. FISH AND WILDLIFE SERVICE  
EDWIN B. FORSYTHE NATIONAL WILDLIFE REFUGE

CONTACT: DAVID BEALL, REFUGE MANNAGER  
EDWIN B. FORSYTHE  
NATIONAL WILDLIFE REFUGE  
PO BOX 72, GREAT CREEK ROAD  
OCEANVILLE, NEW JERSEY 08231

PHONE: 609/652-1665



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
FISH AND WILDLIFE SERVICE

**FINDING OF NO SIGNIFICANT IMPACT**

Based on a review and evaluation of the information contained in the attached Environmental Assessment, I have determined that the reduction of public use impacts on the Holgate Unit, Barnegat Division of the Edwin B. Forsythe National Wildlife Refuge does not constitute a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969.

Date

10/8/87

ACTING Regional Director

UNITED STATES FISH AND WILDLIFE SERVICE

ENVIRONMENTAL ACTION MEMORANDUM

Within the spirit and intent of the Council on Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA) and other statutes, orders, and policies that protect fish and wildlife resources, I have established the following administrative record and have determined that the action of:

**Reducing public use impacts on the fragile barrier beach/dune ecosystem and upon piping plovers, least terns, and black skimmers at the Holgate Unit, Barnegat Division, Edwin B. Forsythe National Wildlife Refuge.**

\_\_\_\_\_ is a categorical exclusion as provided by 516DM6 Appendix 1.  
No further documentation will be made.

\_\_\_\_\_ is found not to have significant environmental effects as determined by the attached Environmental Assessment and Finding of No Significant Impact.




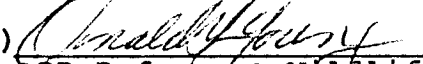


\_\_\_\_\_ is found to have special environmental conditions as described in the attached Environmental Assessment. The attached Finding of No Significant Impact will not be final nor any action taken pending a 30-day period for public review(40CFR1501.4(e)(2)).

\_\_\_\_\_ is found to have significant effects, and therefore a "Notice of Intent" will be published in the Federal Register to prepare an Environmental Impact Statement before the project is considered further.

\_\_\_\_\_ is denied because of environmental damage, Service policy, or mandate.

\_\_\_\_\_ is an emergency situation. Only those actions necessary to control the immediate impacts of the emergency will be taken.  
Other related actions remain subject to NEPA review.

Other supporting documents:

		 _____ Regional Director	 Date
(1)  Initiator	6/30/87 Date	(3)  ARD-Refuges & Wildlife	10/6/87 Date
(2)  Refuge Supervisor	8-21-87 Date	(4)  HR/REC	8-21-87 Date

## I. NEED FOR ACTION

The Holgate Unit consists of 256 acres of barrier beach, dunes, and tidal saltmarsh located at the southern tip of Long Beach Island. The Holgate Unit was donated by the National Audubon Society in 1960 and is a part of the Brigantine Wilderness. The Unit is administered by the Barnegat Division of the Edwin B. Forsythe National Wildlife Refuge.

Refuge objectives are: 1) to preserve and manage wildlife habitats for waterfowl, shorebirds, and other wildlife as production, migration, and wintering habitat; 2) to perpetuate existing habitat that is found to benefit rare or endangered species; 3) to provide wildlife and wildlife habitat-oriented education and recreation programs; 4) to encourage scientific study and research by qualified organizations and individuals.

On January 3, 1975, Public Law #93-632 set aside a total of 6,603 acres of pristine saltmarsh and barrier beach within Brigantine National Wildlife Refuge (now Brigantine Division of the Edwin B. Forsythe National Wildlife Refuge) as a National Wilderness Area pursuant to the Wilderness Act of September 3, 1964 (Public Law #88-577). The Holgate Unit, with its nearly 2 1/2 miles of undeveloped beach and adjacent dunes, was included in the Brigantine Wilderness. Neither the Holgate Unit of the refuge nor the wilderness area includes the tidelands, the area between mean high water and the low water line. Mean high water is the median between spring and neap tides, which is difficult to determine on a dynamic coastal barrier island shoreline.

Public use at Holgate Unit is typically beach oriented with the peak visitor season being between Memorial Day and Labor Day. Most of the visitors walk in from nearby Township parking lots. The abundance of shorebirds and the presence of piping plovers, least terns, and black skimmers makes the area attractive to birdwatchers also.

Surf fishing is a popular recreational activity along the Holgate Unit, especially at the southern tip. Almost all of the surf fishermen access their favorite fishing area along the beach via over-the-sand vehicles. These vehicles are restricted to operation within the tidelands by ordinance of the Township of Long Beach, which issues over-the-sand vehicle (OSVs) permits. Motorized equipment including OSVs are excluded from the Wilderness Area. Unfortunately, the ordinances and the refuge regulations are often ignored with most OSVs operation occurring above the tidelands. The difficulty in determining the mean high water line also contributes to the regulations being ignored.



Over two miles of the dune and high beach including known nesting sites of piping plovers, least terns, and black skimmers were fenced in 1985. A lesser amount was fenced in 1984. The fencing was to keep vehicles and the public out of the fragile dunes and away from the nesting birds. Prior to the fencing, both OSVs and pedestrians crossed the dunes throughout the length of Holgate. The fencing has helped; however, during the summer months, seasonal employees recorded approximately five hundred incidents of visitors or vehicles entering the nesting colonies and dune areas in 1984. As a result of additional fencing, the number of incidents observed by seasonal employees in 1985 was approximately one half the previous year's rate. The refuge officers issued seventy-three violation notices in 1985, compared with twenty-seven in 1984, and over a third of those involved vehicle trespass in a closed area or improper operation of a vehicle. Frequent vehicle tracks and damaged fences indicated that the actual number of OSVs in the dunes and nesting colonies is much higher with most incidents occurring during the night. In 1986, the refuge staff fenced and signed the entire length of the dune and high beach. The number of violations documented by seasonal employees declined slightly while the number of citations issued increased over fifty percent. In 1986, one of the seasonal employees was a refuge officer which accounted for the increase in citations.

On January 10, 1986, the piping plover was listed as threatened under provisions of the Endangered Species Act. The piping plover, least tern, and black skimmer are classified as endangered by the New Jersey Division of Fish, Game, and Wildlife. The National Wildlife Refuge System policy on endangered species management is: "The protection, enhancement, and recovery of endangered and/or threatened species will receive priority consideration in the establishment of refuge objectives and the management of national wildlife refuges. Consideration will also be given to the protection of species identified by the State as endangered or threatened." (7 RM 2.1)

The adult piping plover population average was twelve for the 1985 breeding season. The population was fourteen at the beginning of the 1986 breeding season. On May 10, 1986, the Township of Long Beach closed the OSVs access due to hazardous conditions and complaints from nearby residents. The piping plover surveys between May 10 and June 23, when the township reopened the OSV access, have shown a significant increase. On the May 22 survey, twenty-three adult piping plovers were observed and on June 4 thirty adult piping plovers were counted. Monitoring of the piping plover populations continued throughout the breeding season. The subsequent census dates and observations are: June 18 - 23 adults and 1 young; July 7 - 10 adults and 4 young; and July 23 - 6 adults and 13 young. The change in population occurring in mid-July may be attributed to behavior changes

associated with hatching and rearing of young. The southern one third of the Holgate Unit was closed to vehicles from Mid-July to August 15. The Commissioner of New Jersey Department of Environmental Protection issued the closure order on July 2, 1986. For future years, this order directs the closure of the tidelands to vehicles April 15 through August 15 (see Attachment 1). In accordance with wilderness and refuge regulations, the areas above MHW are closed to vehicles. The dune areas, along with all vegetated areas, are closed to entry at all times, even though the fence is removed September through March.

This environmental assessment presents several management alternatives that would result in less disturbance to nesting least terns, black skimmers, and piping plovers. The proposed action would prohibit over-the-sand vehicles on the refuge and adjacent tidelands during the nesting season. April through August, the area open to pedestrian visitors would be restricted.

## II. ALTERNATIVES

### A. No Action

No action would continue the current situation of multiple agencies at several levels of government involved in management of adjacent lands with overlapping jurisdictions. Pedestrian visitors would continue to use the lower beach and tideland areas with most of the upper beach, the dunes, and nesting areas being closed to entry. Vehicle access on the tideland areas would continue to be regulated by the New Jersey Department of Environmental Protection with the Township of Long Beach selling access permits to OSVs. The refuge lands would remain closed to vehicles since it is a designated wilderness area and the annual fencing efforts would continue.

### B. Enforce Current Regulations

The minimum action is enforcement of federal and other applicable regulations on the refuge property only. This action would continue to prohibit the operation of OSVs above the mean high water line. The annual fencing of the entire beach line approximately one hundred feet landward of the difficult to determine mean high water line would continue. This fence location is selected to insure that non-refuge lands are not inadvertently closed. The fenced and signed area would be closed to all public entry and would include the dunes, most of the beach, all vegetated areas, and the nesting areas for piping plovers, least terns, and black skimmers. The fencing and signing was installed to these standards in early spring of 1986.

The Service's policy on off-road vehicles states: "All lands within the National Wildlife Refuge System are closed to off-the-road use of vehicles by the general public unless specifically designated as open to the use of off-road vehicles" (8 RM 7.2). The definition of off-road vehicles includes the OSVs (8 RM 7.4). Also, off-road vehicle use areas are not to be located in Wilderness Areas (8 RM 7.8).

The New Jersey Beach Buggy Association along with other OSV user groups have recommended this alternative and have recommended additional restrictions which would further reduce the OSVs impact on beach nesting birds. These restrictions include limitations on areas of use, considerations for piping plover feeding areas and black skimmers nesting areas, time of travel along the beach, and movement at night plus establish criteria for OSV use of the tidelands. OSV access would be limited to wildlife resource related activities, primarily surf-fishing.

C. Proposed Action - Obtain and Exercise Federal Management Rights to Regulate OSV and Pedestrian Use on Adjacent Tidelands

In addition to the existing regulation and policies applicable to OSV operation and public use at the Holgate Unit, the Fish and Wildlife Service would enter into a management agreement or obtain leases with the State of New Jersey and if necessary the Township of Long Beach. The thrust of these agreements or leases would be to provide greater and more permanent protection for the beach nesting birds including the piping plovers, least terns, and black skimmers; for the vegetation; and for the fragile dune/barrier island ecosystem. The objective is to prohibit the operation of private OSVs and restrict pedestrian public use on Holgate Beach including the tidelands during the piping plover breeding season ie. from establishment of nesting territories through fledging of young. Major feeding areas for the piping plover such as the cove at the southern end may also be closed to public use until the piping plover migrates.

D. Obtain Riparian Rights and Restrict All Public Use

The Fish and Wildlife Service would obtain the riparian rights to the tidelands adjacent to Holgate Unit and restrict all public use that may result in disturbance to the fragile barrier island ecosystem, especially the beach nesting birds such as piping plovers, least terns, and black skimmers. OSVs would be prohibited at all times. Pedestrian visitors would be permitted on the lower beach and tidelands September through March.



### III. AFFECTED ENVIRONMENT

The Holgate Unit consists of approximately 260 acres of beach, dunes, and marsh vegetation. The vegetation cover is typical barrier beach species grading from barren beach to low fore dunes with beach grasses and secondary dunes with beach plum, wild rose, bayberry, marsh elder, and poison ivy. The terrain extends from sea level to approximately ten feet on the higher dunes. A few low areas collect sufficient freshwater to support pockets of other grasses and sedges. The bayside of the area is typical salt marsh vegetation with groundsel bush and marsh elder at the dune edge and salt meadow cordgrass dominating the lower areas. Most of the marsh averages two feet above mean sea level. This is the only undeveloped area on Long Beach Island and one of a few undeveloped beaches in New Jersey.

The Holgate Unit is one of the most important areas for beach-nesting birds in New Jersey. Piping plovers nest in approximately twenty sites along the State's shorelines with one of the most productive areas being Holgate with twelve young fledged in 1984, six in 1985, and over fourteen in 1986. These fledglings represent ten to twenty percent of the piping plovers produced in New Jersey. Holgate Unit's least tern colony is one of the largest in the state with an average of approximately 150 nesting pairs per year. The state's largest black skimmer colony is located at the Holgate Unit.

Each of these species requires undisturbed beach habitat for survival. The 1985 black skimmer production was very low and this was apparently due to disturbance from OSVs passing along the fringe of the colony (on the state's tidelands) and several incidents of OSVs, visitors, and dogs entering the colony. The most continuous source of disturbance was the OSVs. It is felt that OSV headlights shining into and across the skimmer colony was a major source of disturbance. This disturbance was observed by refuge staff. The colony relocated to a nearby area not previously used. The relocation and nesting efforts were thwarted by disturbance from pedestrian visitors, mostly from the boats landing on the southwestern side of Holgate Unit, an ultra-light plane landing near the colony and at least four incidents of vehicles driving through the colony. Continued lack of production from this colony could result in the colony abandoning Holgate and the loss of another nesting area. In 1986, the beach adjacent to the skimmer colony was much wider than in 1985. Hence, the fencing was placed to provide a wider buffer which reduced disturbance. The colony was successful in 1986.



In addition to the three avian species of special emphasis, there are approximately fifty other species that occur on the area during the summer season including nesting black ducks, American oystercatchers, willets, and seaside sparrows.

A variety of other animals also use Holgate's marshes, dunes, and beaches. These include the diamond-backed terrapin, Fowler's toad, meadow vole, and the eastern cottontail. Horseshoe crabs may be seen along bay beaches in May and June when these primitive animals come ashore to mate and lay eggs.

#### IV. ENVIRONMENTAL CONSEQUENCES

##### A. No Action

No action does not provide a long-term solution to the issues of managing a unit of the Refuge where multiple agencies at several levels of government are involved in management of adjacent lands and public use activities with overlapping jurisdictions. Fencing and signing would be installed and maintained as in 1986. Seasonal aides and refuge officers would continue to enforce the closure of dunes and beach nesting areas. The New Jersey Department of environmental Protection's closure to OSVs from April 15 through August 15 may remain in place; however, the permanency of the closure order and its application only to vehicles are items of concern. Other items of concern include the State's willingness to enforce the order and the manner in which limited enforcement authority was conveyed to the Service. Modification of the order may improve its application; however, a formal agreement on management of the tidelands would resolve the administrative and operation concerns.

##### B. Enforce Current Regulations

This is a minimum action alternative that would decrease the level of protection for the beach nesting birds and for the fragile dunes. Federal regulation would restrict OSV operation to the tideland area or below the mean high water line. State and local regulations would apply to OSV operation on the tidelands. The dynamic shoreline would make the determination of the mean high water line very difficult. The State's definition of mean high water is the average of all tides over a period of 18.6 years. At least one beach buggy association has previously indicated that they would challenge any mean high water line not established over a long period of time. The everchanging beach profile would make marking and maintaining a marked mean high water line extremely difficult. The



current practice of placing the fencing and signing approximately 100 feet landward of the observed variable MHW line would continue. Minor deviations will be implemented around the skimmer and tern colonies.

OSV tire ruts are deep enough to impede the travel of or to trap young tern, plover, or skimmer chicks that attempt to cross. Since the easier routes to drive on the beach are in the previously established ruts, the trapped chick survival rate is extremely low. Chick mortality in tire ruts which has been observed at other sites has not been documented during the past three years at Holgate. Previously, one solution was to advise OSV operators to drive on the tidelands; however, driving on the lower section of the tidelands is now questionable due to disturbance to piping plovers which prefer to feed at the water edge on out-going tides. The impacts on the small invertebrates which piping plover feed upon is another concern.

In 1986 the fence was placed approximately one hundred feet from the observed MHW line. This placement was to maintain a stable fence line, lower the maintenance requirement, be assured that the fence would not quickly wash out, and not inadvertently fence or close non-refuge lands. The fence was moved to encompass any significant accretion and to create a buffer around skimmer and tern colonies. The fencing efforts have been effective with only a few vehicles driving through the fences and proceeding across the nesting areas or dunes in 1985. However, those few OSVs had a significant adverse impact upon the beach nesting birds and upon the stability of the dunes. In 1986 there were one significant vehicle intrusion into the dunes. fencing and signing is more effective than either method independently.

This alternative may not preclude OSVs operation along the eastern edge of the black skimmer nesting area. Operation on the tidelands adjacent to the colony in 1985 was considered the major cause of the colony's relocation. The OSV impact may be reduced by the adoption of the New Jersey Beach Buggy Association (NJBBA) proposed restriction on night-time vehicle movement in areas near the skimmer colony.

The implementation of the other restrictions proposed by the NJBBA will reduce the OSV impacts below those of 1985.

C. Proposed Action - Obtain and Exercise Management Rights to Regulate OSV and Pedestrian Use on Adjacent Tidelands

The objective of the proposed action is to reduce the

public use disturbance to the beach nesting birds such as the piping plovers, least terns, and black skimmers. The Fish and Wildlife Service would obtain management agreements, directives, or leases from the State of New Jersey and, as necessary, from the Township of Long Beach for the management of the tidelands adjacent to the Holgate Unit of the refuge. The thrust of the management actions would be to prohibit the operation of private OSVs and restrict pedestrian public use on Holgate Beach during the piping plover breeding season, ie. from establishment of nesting territories through fledging of young. Major feeding area for the piping plover such as the cove at the southern end of the island may be closed to public use until the piping plover migrates. During the piping plover breeding season, Government OSVs may occasionally operate on the area in conjunction with protection of the resource, public safety, and emergencies. Government OSVs will not be used for routine administration of the Holgate Unit.

The environmental impacts of this action will be less than those currently occurring and those of only enforcing the current refuge regulations. Public use impacts on the piping plover would be greatly diminished. Tire ruts would generally not be present as traps for tern and plover chicks of the beach nesters. Dune vegetation would be established and perhaps dune formation would occur in the absence of the errant operation of OSVs. The wash-over area, which was fenced in 1985, had some vegetation established with associate sand accumulation in one season.

The Township of Long Beach currently sells permits for OSVs. Prohibiting OSVs on Holgate Beach would have a significant impact on the sale of OSVs permits. The Holgate Beach is the only section open to OSVs during the summer months and generates most of the revenue. Those revenues are for maintenance of beach entrances and patrol. With less revenues, the OSVs entrance would receive less maintenance and would be closed more often due to unsafe conditions. The entrance area, which requires routine maintenance, is not on the refuge.

D. Obtain Riparian Rights and Restrict All Public Use

The objective of this alternative is to minimize the disturbance to the fragile barrier island ecosystem, especially beach nesting birds, through the removal of most public use occurring on the Holgate Unit. The wildlife and wildlife habitat impacts resulting from this alternative would be the least of the four presented. The OSVs would not be present at any time during the year and pedestrian visitors would be pre-



sent only during the piping plovers non-breeding season.

While offering the greatest protection for the ecosystem, the impact on the refuge visitor and adjacent community may be significant. Those impacts are less beach area available during the summer tourist/beach season and some additional crowding on nearby beaches. The Township of Long Beach will sell fewer OSVs beach permits. OSVs may relocate to other beach areas resulting in greater impacts on those areas.

#### V. Consultation and Coordination

The field observation records of the refuge staff were used extensively in the preparation of this assessment. Several recent publications on management of beach nesting birds were consulted. The policies of the Fish and Wildlife Service combined with the Holgate Unit being a part of Brigantine Wilderness and the recent classification of the piping plover as a threatened species prompted the proposal to resolve the over-the-sand vehicle operation and public access issues. Several offices within the New Jersey Division of Fish, Game, and Wildlife including the Endangered and Non-Game Species Program were consulted during the environmental assessment preparation.

A news release (Attachment 2) announcing the availability of the draft environmental assessment were sent to twelve area news papers. Articles were published in the "Asbury Park Press" and "The Press", the two daily papers with the largest distribution in the area, plus a number of smaller papers. Radio stations in the Toms River area also aired a segment on the proposal.

At the request of William Miller, United Mobile Sportfishermen, Inc, the comment period was extended twenty days. William Miller also submitted a "Freedom of Information Request" for "recent publications on management of beach nesting birds and impacts of disturbance on beach nesting birds". Copies of the publications maintained at the refuge were forwarded to Mr. Miller.

The fishing clubs and beach buggy associations generated a large volume of comments to the environmental assessment. Nine hundred sixty-two cards and letters plus one petition with fifty-four signatures were received. A sample of the cards and letter stating a position, such as in favor of Alternative B, are appended in Attachment 3.

Letters which address the environmental assessment or provided comments on the environmental assessment along with responses to the comments are contained in Attachment 4. Attachment 5 is a selection of responses that were more than the form letter, state a position, but were not based on a review of the environmental assessment.

In summation, the New Jersey Beach Buggy Association, United Mobile Sportfishermen, and related user groups organized opposition to the proposed restriction in public use at Holgate. The organizations present comments that address the draft environmental assessment and the management of beach nesting birds in general.

ATTACHMENT 1



Let's protect our earth



STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
RICHARD T. DEWLING, Ph.D., P.E., COMMISSIONER  
CN 402  
TRENTON, N.J. 08625  
609 - 292 - 2885

*Ronald Wood*  
JUL 09 1986

July 2, 1986

Ronald Wood  
New Jersey Beach Buggy Association  
P.O. Box 186  
Collingswood, N.J. 08018

<input checked="" type="checkbox"/> MANAGER	<input type="checkbox"/> MAINTN
<input checked="" type="checkbox"/> ASST MGR #1	<input type="checkbox"/> BIO AIDE
<input checked="" type="checkbox"/> ASST MGR #2	<input type="checkbox"/> CLERK
<input type="checkbox"/> ASST MGR #3	<input type="checkbox"/> FILE
<input type="checkbox"/> OUTDOOR REC PLAN	<input type="checkbox"/> DISCARD

Dear Mr. Wood:

I am writing to obtain your assistance in protecting three endangered avian species and obtaining compliance with provisions of the Endangered and Nongame Species Conservation Act, N.J.S.A. 23:2A-1 et seq. The species affected are the black skimmer, the piping plover, and the least tern. Mr. David Beale, Refuge Manager of the John D. Forsythe National Wildlife Refuge, has alerted the State to the harassment that these species suffer during their breeding seasons from the use of four-wheel drive vehicles on and about the Holgate Unit of the Brigantine Wilderness Area located at the south end of Long Beach Island.

Black skimmers suffer harassment from the lights of oncoming motor vehicles at night. The adults are flushed from their nests, leaving eggs and chicks vulnerable to exposure and predators. Piping plover chicks leave their nest upon hatching, and, until capable of flight at about 30 days of age, become trapped in the ruts left by motor vehicles. Exposure, starvation, predation, and vehicular impact frequently ensue, resulting in the death of these young birds. There is some evidence that adult plovers may be killed, injured, or exhausted in their attempt to avoid motor vehicles. Their natural behavior dictates ground evasion, often by futilely running along the tracks in front of oncoming vehicles rather than flight. Survival of least terns, as well as that of black skimmers and piping plovers, is threatened by constant disturbance from people and vehicles during the critical breeding cycle. As the number of people on remote parts of the beach is greatly increased by vehicular access, so is the threat of disturbance.

In order to protect these endangered species from harassment, the intertidal lands adjacent to the Holgate Unit of the Brigantine Wilderness Area are closed to all vehicular traffic, effective immediately, until August 15, 1986, and during

subsequent years from April 15 to August 15. Refuge personnel in cooperation with State conservation officers will enforce this closure on both the refuge property and the intertidal lands adjacent thereto that are under the jurisdiction of the State.

Violation of this closure would constitute harassment of endangered species, a violation of The Endangered and Nongame Species Conservation Act, subjecting the violator to penalties of not less than \$100.00 and not more than \$3,000.00. In order to further compliance with this act, I ask that you use your office to inform the members of your association as to the above closures.

I thank you in advance for your cooperation.

Sincerely,



Richard T. Dewling  
Commissioner

cc: ~~David Beale, Refuge Manager~~  
James Mancini, Mayor  
Russell Cookingham, Director  
George Howard, Assistant Director  
Joann Frier-Murza, Chief

**ATTACHMENT 2**



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
FISH AND WILDLIFE SERVICE  
Edwin B. Forsythe National Wildlife Refuge  
Brigantine Division  
PO Box 72  
Oceanville, New Jersey 08231

FOR INFORMATION, CONTACT:  
David L. Beall, Refuge Manager 609-652-1665

**REFUGE PROPOSES TO REDUCE PUBLIC USE AT HOLGATE**

The U.S. Fish and Wildlife Service is issuing a Draft Environmental Assessment which proposes to reduce the area available for public use and to restrict the operation of over-the-sand vehicles at the Holgate Unit of the Edwin B. Forsythe National Wildlife Refuge. The proposed action would prohibit the operation of over-the-sand vehicles above mean high water on the refuge area and through management agreements, directives, or leases restrict the operation of vehicles on the adjacent tideland. Pedestrian visitors would be limited to beach areas not used by nesting piping plovers, least terns, and black skimmers. Piping plover feeding areas may also be closed to refuge visitors. The objective of the proposed action is to provide additional protection to the fragile barrier beach/dune ecosystem and the nesting sites for piping plovers, least terns, and black skimmers.

Copies of the Draft Environmental Assessment on the Impacts of the proposed action and three other alternatives may be obtained from the Refuge Office at the address below. Those interested in commenting are encouraged to submit written comments by October 25, 1986, to the Edwin B. Forsythe National Wildlife Refuge, PO Box 72, Oceanville, NJ 08231.

X

X

X

**ATTACHMENT 3**



Ninety-one cards and letters with this message.  
On the cards, "rife" was replaced with "filled".

October 11, 1986

U.S. Fish and Wildlife Service  
Lorsythe Wildlife Refuge  
Refuge Manager

Dear Mr. Seall,

I am opposed to the suggested closing  
of Holgate, New Jersey, to four-wheel drive  
vehicles.

Members of your staff have apparently  
supplied you with erroneous and misleading  
information. The report is rife with inaccuracies.

Very truly yours,

Mr. and Mrs. G. Hillman

Eight hundred three cards and letters containing this or very similiar statement.

Dear Mr. Beall,

I am writing in regards to the Draft Environmental Assessment, which you prepared for the Holgate Unit of the Edwin B. Forsythe National Wildlife Refuge, For the restriction of over-the-sand vehicles.

I feel that the actions which are proposed in the draft cannot be supported by the facts which are presented. I, therefore, feel that Alternative B of the draft (Enforce Current Regulations), if actively acted upon, would obtain the desired results and enable the sportsman to continue to pursue his recreational enjoyment. Thank you.

Signed Mark Trowbridge  
Date 10/29/86

Name Mark Trowbridge  
Address 532 Hunting Tex Ave.  
Glendora N.J. 08029

N.J.B.B.A #654

ATTACHMENT 4





# State of New Jersey

RECEIVED  
NOV 14 1986

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

DIVISION OF  
FISH, GAME AND WILDLIFE  
RUSSELL A. COOKINGHAM  
DIRECTOR

PLEASE REPLY TO:  
CN 400  
TRENTON, NEW JERSEY 08625

November 6, 1986

<input type="checkbox"/> MANAGER	<input type="checkbox"/> MAIN
<input type="checkbox"/> ASST. MGR. #1	<input type="checkbox"/> RID. AIDE
<input type="checkbox"/> ASST. MGR. #2	<input type="checkbox"/> CLERK
<input type="checkbox"/> ASST. MGR. #3	<input type="checkbox"/> FILE
<input type="checkbox"/> OUTDOOR REC. PLAN.	<input type="checkbox"/> DISCARD

Mr. David Beal, Refuge Manager  
Forsythe National Wildlife Refuge  
P.O. Box 75  
Oceanville, NJ 08231

Dear Mr. Beal,


My staff and I have reviewed the Draft Environmental Assessment for reduction of public use at Holgate Unit. We support the provisions of the "proposed action" as it relates to the protection of least terns and black skimmers.

The assessment presents evidence that action is needed to prevent damage to endangered wildlife and the beach/dune ecosystem. Evidence of damaging use patterns, frequency of violations, and direct negative impacts on least terns and black skimmers support the prohibition of over sand vehicles on Holgate beach and adjacent tidelands between April 15 and August 15.

However, the restrictions proposed to restrict over sand vehicles and pedestrians to protect piping plovers are premature. The additional assertion that piping plover use increased after the closure of the beach to vehicles during 1986 is not supported by year end data collected at the Refuge after the initial draft assessment was prepared. In addition, there is no hard evidence that the initial increase last spring was related to the closure to vehicles.

Although restrictions are justified by the primary impacts to black skimmers and least terns and the ecosystem cited in the assessment, further study to evaluate subtle impacts on the piping plovers are essential. Experimental closure to gather data may be required. We request a postponement of permanent rules closing beaches and riparian land to protect piping plovers until such a study is completed. The Division is anxious to cooperate in developing a study design and plan which will relate to the whole state while focusing on the unique circumstances at Holgate.

Sincerely,

  
Russell A. Cookingham  
Director  
Division of Fish, Game and Wildlife

RAC:JFM:pjf

4-1

New Jersey Is An Equal Opportunity Employer



Response to Russell A. Cookingham, Director, New Jersey Division of Fish, Game and Wildlife.

1. The refuge staff will continue to provide data on the piping plover, least tern and black skimmer including data specific to nesting sites, pair territory, pair and nest distribution, distribution of observations with emphasis on feeding observations, and sources of disturbances. The refuge staff will also explore the the possibilities of measuring the abundance and diversity of small invertebrates within the inter-tidal zone at several sites. Study sites may include the south tip of Holgate, the north and south ends of Little Beach Island, and the northern end of Brigantine Island. The project may provide an indication of OSVs impacts on a piping plover food source.

The Service will be interested in any research the Division proposes and will cooperate in developing a study design.



# United Mobile Sportfishermen, Inc.

## Member Organizations:

Assateague Mobile Sportfishermen • Cape Hatteras Anglers Club • Cape Lookout Mobile Sportfishermen  
Delaware Mobile Sportfishermen • East End Anglers Club • Farragut Striper Club  
Great South Beach Mobile Sportfishermen • Happy Hookers Fishing Club • Hartford Surf Club • Long Island Beach Buggy Association  
Massachusetts Beach Buggy Association • Mobile Sportfishermen of Connecticut • Montauk Surfcasters Association  
Nags Head Fishing Club • New Jersey Beach Buggy Association • North Carolina Beach Buggy Association  
Rhode Island Mobile Sportfishermen • Thundermist Striper Club

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October 22, 1986

Dear Mr. Beall,

In comment on the draft EA for reduction of public use and OSV impacts at the Holgate Unit of the refuge (undated) we offer the following interim commentary pending receipt of the publications we requested of you and the piping plover draft recovery plan. Final comments will be sent upon receipt of these documents.

Our concern in these comments is directed to the effects and necessity of the proposed action on mobile sportfishermen and their access ability to enjoy and partake of the fishery (finfish and shellfish) resources available at the refuge. Obviously, this pursuit is for recreational purposes directly connected with these fishery resources and hence this access is in accord with the Refuge Recreation Act and F&WS policy that recreational uses shall be dependent on the particular fish and wildlife resources available at that refuge, so long as they do not impair the prime refuge mission. Other non-resource related recreation does not merit such priority consideration under these policies.

We therefore do not agree with your position as stated during our meeting of October 13 that you will not distinguish between OSV operators who are mobile sportfishermen and those who merely go there to drive off-road. We know you are aware of Service policy with regard to resource dependent uses and that Parker River NWR does make such a distinction and only issues OSV permits for mobile sportfishing access. Simply because OSV permits are issued by the Town of Long Beach is no reason for this distinction not to be adopted by the Service for Holgate. As you acknowledged, this small minority of non-mobile sportfishermen is the source of a significant number of OSV infractions. In the absence of a declared Service attitude there is no way for the permitting authority to be aware of it or to act on it, much less a stronger Service position that insists on such distinction. It is my understanding the NJ DEP already makes this distinction in OSV use at Island Beach S.P. and thus a significant step in making this distinction is already in place, if there is a will



to adopt it. Non-acceptance flies in the face of established Service policy.

Having visited Holgate last week to see for myself, I take strong exception to the EA assertion that sport fishing access can be limited to pedestrian access "the same as for all other visitors" and yet be considered as having provided for this use. The EA properly notes that very few surf fishermen would walk to the areas now accessible by OSVs. There is good reason for this; surf fishermen can not walk to these areas the same as all others. They are handicapped by the need to wear waders and carry all the trappings of the sport and a catch on the return trip if they are lucky. They are not there for a leisurely stroll on the beach in loafers, they are there to reach the choice fishing locations far down the beach. They must plod along in their waders with their burden and that becomes a physical ordeal rather than a pleasurable recreational experience. Very few if any would return again if they attempted it once and the older or handicapped who now enjoy their sport at Holgate would not even try. I would be among them.

Under these conditions the Service would effectively have locked out the sportfisherman whose use comprises the only significant resource related recreation at this unit while continuing to accommodate the remainder of non-resource related recreational uses. Were I one of those so effected I would carry a grudge against the Service for the rest of my days and would do something about it at every opportunity if convinced that it was not required for valid reasons.

With regard to the EA assertion that the proposed alternative will "provide additional protection to the fragile barrier beach/dune ecosystem"; it is considered so much window dressing that will do nothing of the sort. The Holgate beach/dune system typifies a barrier system subjected to frequent storm overwash and having low overwashed dunes as typified by those at Portsmouth Island at Cape Lookout National Seashore. This type of undeveloped island is elastic in that they have withstood centuries of onslaught by nature. They retreat landward and will continue to do so in the face of rising sea level. They are shaped and reshaped and rebound between natural events and repeatedly do so. I see nothing fragile about this and consider the recent adoption of the "fragile" cliché a misnomer that does not square with the facts. The island equilibrium will remain in balance so long as development does not occur that attempts to hold it static. Geomorphology and vegetation are determined by these processes.

Holgate exhibits no discernible effects of man's use and is shaped entirely by the magnitude of the overwhelming forces of nature, with man now excluded from most of these areas by the presence of no public entry signs and existing wilderness designation.

The truth of the matter is that the desire expressed in the EA to foster vegetation establishment (and hence dune formation) in the washover area (EA pg 7, 2nd para.) is contrary to the mission of the refuge. The washover area is an important nesting site for the very birds the EA professes to protect due to the absence of vegetation. Establishment of vegetative growth there (and elsewhere on the oceanfront) will increasingly make this site unsuitable nesting habitat.

As you know, the Wilderness Act does not pre-empt management actions necessary to fulfill the refuge mission. Thus the important mission of providing suitable nesting habitat allows (and even demands) manipulation of the environment to maximize these habitat opportunities rather than to abet their loss with vegetative succession. That means management measures could/should include removal of vegetation from nesting areas in the off-season to maintain and expand their suitability. This could be a worthwhile volunteer project.

We are particularly concerned with the allegation that "tire ruts" are a source of chick mortality and hence my FOIA request to you for the publications you consulted which would substantiate this claim and/or justify the proposed alternative. At the present time we have received nothing to convince us that this is a valid concern and is anything more than mere unsupported opinion with no history of such experience at Holgate. This is especially so in view of the fact that there are a number of things that have happened at this unit which have caused unsuccessful nesting and egg and chick loss. We see little or nothing in the EA that will take corrective action that will truly benefit the birds. It literally swats at gnats while ignoring the carnivorous predators which are the documented cause of loss of protected avian species.

There are the fox on Little Beach Island and Holgate which may be eliminated by trapping as you indicated would be authorized during our meeting. That's good for a start at Little Beach (and Holgate) if aggressively pursued.

There are the gulls in which it was documented that one individual came back for as many as six helpings of chicks in one day alone per a 1985 F&WS Volunteer Report. Nothing was discussed to correct this known loss of hatch.

There are the crows, which members of NJBBA and Happy Hookers personally saw feeding on eggs of beach nesting birds. As you know, they are notorious for this. Nothing shown to be planned for this.

There are most likely rats which are nocturnal feeders and will not be spotted during daytime duty tours. Nothing discussed.

There are dogs from pedestrian visitors and most likely domestic and/or feral cats from the nearby community.

There are boaters that come ashore at Holgate and Little Beach who are unaware of the impacts they may cause. Nothing discussed.

It would seem to us that isolated Little Beach Island should be the prime habitat and contributor for the p.plover recovery and for other shore nesting birds, but unfortunately such is not the case as per our discussion with you. Certainly the causes of failure there should have the highest priority rather than the questionable benefits of restricting public use at Holgate.

Cumulatively, these are the causes of failure yet we see nothing much in the way of meaningful action to rectify them. There is not one documented case of an OSV causing loss of an egg or chick but there is the speculative attribution that several OSV incursions, passing OSVs and pedestrians



and dogs entering a colony were the cause behind abandonment of a black skimmer nesting site.

When the colony relocated to another site they were again unsuccessful (EA, pg 5) due primarily to disturbance from boater origin pedestrians. (No corrective action proposed for this, if true)

The simple fact is that the skimmers are only known to be seen in this area by longtime surf fishermen in the past ten to twenty years and that the colony has grown and prospered in that time with the existing and continuing presence of mobile sportfishermen with their OSVs. While we condemn those who drive into the colonies we have no reason to believe that these few instances are responsible for nesting failure, abandonment or mortality; or that the meat axe solution proposed is a valid fix. We believe the fencing and signing measures taken have done much to correct this problem and your enforcement efforts with full prosecution of offenders will make it a non-issue.

With regard to the nature of disturbance from OSVs, pedestrians and dogs; a study conducted under National Park Service contract by the University of Massachusetts at Cape Cod N.S. (The Effect of Off-Road Vehicles on Least Terns and Other Shorebirds; UM-NPSCRU Report #26; May 1978, reprinted Feb. 1979; by Bradford G. Blodget) had this to say:

"Compared to pedestrians on the beach, off-road vehicles were a relatively unimportant source of alarm to terns. Vehicles had to pass nests as close as 5 m to cause significant number of "upflights". At distances of 20 m or more vehicles had virtually no effect. Terns flushed from their nests when approached on foot more than twice as far away ( $\bar{x}=56m$ ) as when approached by vehicles ( $\bar{x}=23 m$ )."

We have every reason to believe that black skimmers and p.plovers would respond in the same way.

In this study, at another site, of 210 Least Tern eggs in 111 nests; 127 were taken by fox, 77 hatched, 3 washed away, 1 was crushed by a vehicle, 1 failed to hatch and 1 was taken by a human. At another colony with 340 plus chicks it was found:

"no damage by vehicles running around the periphery of the colony was observed, demonstrating that vehicles and terns can coexist on the beach when colonies are properly fenced." The author states: "my observations show that protective fencing eliminates most destruction of nests by vehicles and tend to confirm findings in Great Britain that predation and inclement weather are usually much more important than physical disturbance on beaches by vehicles and people bathing and walking."

This study found that Least Terns may be much more alarmed by dogs than they are by people (pedestrians).

We suggest that if the black skimmers abandoned their nesting site as claimed, the cause can not be attributed to the nature of the OSV activity described, however it may have very well been due to the incidents of entry by dogs as noted, of which this study and others cited in it found that these birds were less tolerant of animal presence, and surely could have induced the trauma that caused relocation.



The Cape Cod study further recommended that bird monitors should use an OSV as a blind to reduce alarm to these nesting birds. We think this is a valid suggestion that should be adopted at Holgate as well as effectuating a concerted effort to reduce the number of incursions into nesting areas for purpose of monitoring nesting sites, nests, eggs and chicks at Holgate. While we agree that monitoring and the statistics it produces is essential to measure populations, effect of management actions and success, we think less stressful surveillance methods are desirable and presently appear to be a significant cause of entry into nesting sites and flushing of nesting birds.

With regard to 1986 p.plover nesting at Holgate, per our meeting with you, you stated there were ten nests established in this season of which eight were successful. The two failed nests were located at the north end near the beach entrance and were abandoned due to pedestrian intrusions as you disclosed, and the successful nests were further south where OSVs are the more significant public use. Yet it was here that success was achieved and demonstrated that OSV presence did not effect nest establishment before OSVs were barred (from mid-May to mid-June) from the beach, nor did they effect the outcome when they were again allowed access (mid-June to mid-July) and then when only limited access was allowed (mid-July to mid-August). It seems to us you can not argue with success and mobile sportfishermen's presence or absence are shown to have had no material effect on the outcome. In 1986 there were two months where there was no OSV use or were restricted in area of use. As we suggested at our meeting, you now have a history of nesting results with a significant season of no or restricted OSV use; that a full 1987 season of use compared against 1986 no use/restricted use season will give a measure of nesting performance to compare between the two so as to make a determination as to whether or not the proposed alternative is a valid one. We think the outcome is fairly evident.

We agree that fencing installed in 1984/85 was necessary, is in accord with the recommendations of the above study by University of Massachusetts, has virtually eliminated impact of mobile sportfishermen on birds and has clarified for the public the Service's intent to deny entry into these areas, which was previously unclear.

This action has minimized to a negligible level man's impact on beach nesting birds which should avoid the need for more severe restrictions such as the proposed alternative.

The fencing action is what we believe the Service had implied when it said "modification of Federal actions rather than termination has been the experience of the Service" for actions to be taken to effect recovery of the p.plover (50 FR 50732, 3rd col., last para.). We consider the fencing is the modified action that avoids the need for termination in whole or in part, as promised, when the p.plover was listed.

In regards to the question of whether or not OSVs do or do not operate above the tidelands, and thus in the wilderness, we subscribe to what the President of Long Island Beach Buggy Association (LIBBA) had to say in his letter to you of October 12, 1986. We sincerely suggest that the Service consider adopting these recommendations. We think you have the discretionary authority to adopt it; with the knowledge and assent of the Regional Director if you really deem it necessary. As per your suggestion to review Title 50, Part 35 of the Code of Federal Regulations,



we have concluded that conditions specified in it (50 CFR 35.5(b) and .6(f)) provide the authority to adopt this suggestion if further higher authorization is required. In that event, we suggest the initiative to obtain this authorization should come from your office to resolve this matter and we request that this be done if required to settle the matter. Actions taken a couple of years ago to end access to the bay through the washover area has eliminated OSV use in the heart of the Holgate wilderness and OSV use at the periphery but outside of the wilderness on State land is not a requirement of the Act. We feel the former action has resolved the wilderness issue and trust that the nebulous and constantly moving location of mean high water will not be used as a pretext for ending mobile sportfishing access. In any event, with exception of the few instances of clear intrusion into the nesting and dune areas we fail to understand how it can be claimed that the majority of OSV operators drive above the tidelands when it is readily acknowledged that it is difficult to determine where MHW is and wilderness begins.

On another matter, we expect you are aware of Secretary Hodel's memorandum to all employees dated November 18, 1985 promoting the Departmental Public Awareness Campaign on Citizen Responsibilities for the Public Lands. In it he encouraged citizen volunteer efforts on public lands for the host of volunteer projects that the private sector can provide. We expect you may also be aware of the President's recent Proclamation (#5521 of Sept. 5, 1986; 50 FR 32047) entitled: Federal Lands Cleanup Day, 1986. Both of these directives are intended to advance the "Take Pride in America" campaign initiated by the Secretary and adopted by the President. Both stress the contributions that the private volunteer groups can provide to maintenance of the public estate and encourages federal land managers to solicit and encourage such volunteerism.

We are aware of some of the volunteer efforts undertaken by our affiliates, NJ Beach Buggy Association and Happy Hookers Fishing Club at Holgate in 1985 which we understand you accepted and acknowledged as worthwhile. We also understand that similar volunteer efforts were offered in 1986 but for some reason were not accepted. Obviously this is not what the Secretary or the President intend and if for whatever reasons, efforts in the offered area were not desired then it is suggested that your office could have suggested projects or aid of another type. Both affiliates are among our most respected conservation organizations and we think they have something constructive to offer at Holgate that will further the "Take Pride in America" initiative if there is a desire to take advantage of it. We hope that the apparent 1986 refusal of aid is not an early warning signal of intent to separate them from the refuge in more ways than one and that 1987 will see a return of mutual cooperation in all areas so that all common concerns are mutually addressed.

Concerning the 1986 changing number of increased non-nesting immature adult plovers (EA, pg 2) loafing at the southern tip bayside; their influx during the season there could be attributable to a number of factors such as a population increase benefiting from earlier year hatch, to migrants displaced from Little Beach Island because of failure to provide a safe environment there.



With regard to the statistics cited in the EA, there are some gaps and anomalies that are not explained, especially concerning the p.plover. The following table was prepared from the data provided in the EA to assist in analysis:

Year	Amount of fencing	# of observed violations (ped.& OSV)	# violation citations issued	# of plover adults	# of plovers hatched (fledged)
1984	<than 1985	$\approx 500$	27	not given	12
1985	>than 2 miles of dune line + nesting areas	$\approx \frac{1}{2}$ of 1984	73	avg 12	6
1986	entire length of island (with signs)	none quoted	none quoted	14 early season 23 on 5/22 30 on 6/4	none quoted. On basis of 8 successful nests, 8 fledglings are assumed.

In examining the amount of fencing installed, the # of observed violations and the # of actual citations issued for violations, some idea of the protection provided the birds can be understood. It shows:

- o In 1984, the least amount of fencing existed with the most observed violations and the fewest actual citations issued.
- o 1985 had a greater amount of fencing with half the observed violations but almost triple the number of actual citations issued. Clearly the increase in citations is attributable to increased enforcement working to apprehend a reduced base of violators. From the statistics one can deduce an approximate six fold increase of enforcement activity over 1984. The increased fencing and enforcement apparently are responsible for the approx. 50% reduction of observed violations vis-a-vis 1984.
- o 1986 had the greatest amount of fencing installed, plus the installation of signs notifying the public of no entry beyond the fences. Although no data is given for violations, a safe conclusion should be that the number of observed violations was significantly reduced over 1985 based on the 1984-85 experience alone, with a further reduction attributable to placement of signs which informed the public of no entry and removed the ambiguous status of previous years concerning permissibility of entry. Lack of any 1986 data is a serious deficiency which would give some credence to or disprove the necessity for the proposed alternative.

In examining the plover data to determine the measure of successful plover production and compare with the above measures of protection the following is found:

- o 1984, with the least protection (fencing and enforcement) saw the greatest number of plovers fledged. Unfortunately the number of adults present was not given; another data gap. One could reasonably conclude that the No Action alternative is the way to go.
- o 1985, with more protection, the p.plover production fell to  $\frac{1}{2}$

- of the least protective effort year. Clearly an unexplained anomaly.
- o 1986 While there is more data on the number of adult plovers present, with the latest data provided for June 4th, (3½ months before issuance of the EA) nothing is given for the number fledged. Another crucial data gap. From info learned at the October 13 meeting there were ten nests established, with eight successful. This indicates that there were 20 serious adults but they only produced about 8 offspring. A poor showing for a year that had the greatest restrictions and most protection in comparison to 1985 which with an average 12 adults could only have produced 6 nests with a 100% success of 6 fledged; and in comparison to 1984, the year of least protection, 1986 had an unimpressive showing, another anomaly.

From the preceding, one could reasonably conclude the modus operandi for 1984 (the No Action alternative) is the proper one for piping plover recovery, and since it is the species requiring highest priority because of listing under the ESA, this alternative is indicated. The data does not support selection of the Proposed alternative or the "Riparian" alternative.

One could also deduce that since the latest plover data was for 6/4/86 (3½ months before issuance of the EA) no later data was provided because there was none available at time of basic EA preparation (or the data was intentionally withheld). That perhaps the basic EA was prepared to support the 1986 restrictions and the proposed alternative for the future. If so, such an EA would be ruled null and void as being in clear violation of NEPA as established by case law.

From all the evidence provided in the EA as well as the preceding, it is evident to us that with the present information, neither the Proposed alternative or the "Riparian" alternative can be supported by the facts available. Both would deny legitimate recreation in varying degrees with no commensurate degree of benefit for the intended species. Both would have negative impacts beyond the refuge (although only acknowledged in the EA for the "Riparian" alternative) through removal/reduction of public use with consequent overcrowding at other public areas. The result is in opposition to the objectives of the federal Coastal Zone Management Act which calls for improving public recreational access to the coastal zone and in particular for those coastal uses which are water access dependent (e.g.: surf fishing). As N.J. has an approved coastal program, under this Act the federal consistency provisions incumbent on federal agencies become operable. The EA does not discuss this.

Although the No Action alternative is normally presented in an EA as the present status quo, such is not the case in this instance for your EA because that status does not presently exist and has not since before 1984, as per your own statement at the Oct. 13 meeting.

In any event, if by No Action it is meant that pre-1984 actions are intended under that alternative, then we do not believe that status is desirable, if for no other reason than the fencing when reasonably placed will minimize entry and hence violations.



This leaves the Minimum Action alternative, which as presented (EA, pg 3) comes closer to present day status regarding fencing and which when located as described will provide practical protection for the birds yet allow access as described in the LIBBA President's letter mentioned earlier. This letter suggests an alternative solution to the mean high water and hence wilderness questions, which we endorse. (We question the EA assertion (pg 6) that asking various OSV operators on the beach to drive on the tidelands constitutes an educational effort). In view of the fact that as alleged in the EA, that the Service has never authorized OSV use above the tidelands, (and we think some old time Holgate surf fishermen will dispute this) the discussion of Service policy and the Wilderness Act regarding such OSV use is academic. Never-the-less, neither is a bar to this access when the use is compatible with the refuge mission (which it can be and we think is) and as discussed previously in our comment on 50 CFR Part 35.

Accordingly, at the present time, all present information indicates the Minimum Action alternative as the appropriate one as modified per the previous paragraph. It is this modified alternative that we presently support.

Our final comments will be provided after we receive the material previously noted.

Sincerely,

  
William E. Miller

Response to William E. Miller, United Mobile Sportfishermen, Inc., letter of October 22, 1986.

1. The following applicable paragraphs were extracted from the Refuge Manual which provides the Service's policies on sport fishing and off-the-road vehicles for National Wildlife Refuges.

"The Secretary of Interior is authorized by the National Wildlife Refuge System administration Act of 1966, as amended, and the Refuge Recreation Act of 1962 to permit sport fishing on any refuge within the Refuge System upon determination that it is compatible with the major purposes for which such areas were established. -----

The Service permits sport fishing on refuges where it contributes to or is compatible with refuge purposes. -----" (8 RM 6.1)

"All lands within the National Wildlife Refuge System (NWRS) are closed to off-the-road use of vehicles by the general public, unless specifically designated as open to the use of off-road vehicles." (8 RM 7.2)

"----- The designation of these areas and trails will be based upon the protection of the resources of the refuge lands and the safety of the users of those lands. In addition, the designation of areas and trails will be in accordance with the following planning considerations:

- (1) Damage to wildlife, soil, watershed, vegetation, or other resources of the refuge lands will be minimal.
- (2) Areas and trails will be located to minimize conflicts between off-road vehicles use and other existing or proposed public uses ----
- (3) Areas and trails will not be located in Wilderness Areas or Research or Public Use Natural Areas.
- (4) Areas and trails will not be located in areas possessing unique natural, wildlife, cultural, or conflicting recreational values-----" (8 RM 7.8)

The proposed action is consistent with the Service's policies regarding sport fishing and off-road vehicles.

2. The distinction between mobile sport fishermen and other over-the-sand or off-road vehicles (OSV) may be applicable when and where such vehicles are permitted on a National Wildlife Refuge. In practice the distinction is made as a concession to mobile sport fisherman and to reduce over-the-sand vehicle traffic on beaches. At Holgate, vehicles are not permitted on the refuge due to the wilderness status. Currently, the

Township of Long Beach and the State of New Jersey regulations apply to the operation of OSV on the tidelands..

3. The proposed action is to restrict the operation of OSVs on the tidelands between April 15 and fledging of the piping plover chicks, ie. the breeding and reproduction season for the piping plover, least tern, and black skimmer. OSVs will be permitted on the tidelands during the remainder of the year. The EA does not indicate that the prime surf fishing area would be as accessible or that the quality of the surf fishing experience would be the same.
4. The EA provides for restricting both OSVs and pedestrian public use during the piping plover breeding season. Prime piping plover feeding areas, such as the cove on the southern end of the island may be closed to public use until the piping plover migrates in the fall.
5. "Although these barriers of sand, shell, and gravel exist on all coastlines of the United States, they are most well developed along the Atlantic and gulf coasts. These barriers are fragile front lines of defense against wind and tidal energies and especially the ravages of frequent winter storms and occasional hurricanes. As coastal barriers endlessly shift into a variety of shapes and sizes, they absorb ocean energies, buffering the mainland and landward aquatic habitats from the normal scour of waves and currents and the most destructive force of hurricanes or northeasters." (Wells, John T., and Charles H. Peterson. 1986. Restless Ribbons of Sand. 20 pp. Produced by Louisiana State University in cooperation with the U.S. Fish and Wildlife Service.)
6. The continued existence of the wash over area is a discernible effect of man's use, primarily OSVs. During the past two years the vegetation and profile of this area has changed due to the absence of OSVs and most of the obvious effects have disappeared. The use of this area as a nesting site has increased with the decreased OSV traffic. Piping plover and least tern habitat existed at Holgate prior to the advent of OSVs. Habitat is shaped by the forces of nature which are at their greatest during winter northeasters and late-summer/early-fall hurricanes. Beach buggy may accelerate the changes by destroying vegetation and providing avenues of least resistance for overflow such as the overwash area.
7. Chicks of several coastal nesting species do become trapped in tire ruts on beaches and do die when the next vehicle proceeds along the same path. Refuge Manager Beall and others have

observed this at beach areas similar to Holgate. Richard Dyer, Endangered Species, Fish and Wildlife Service, has photographic documentation of chick mortality in tire ruts.

8. Trapping has been implemented on Little Beach Island. Control of rats and feral cats on Holgate will continue. Scent station transects will be used at both sites to determine the presence of other predator mammalian species. An animal control plan and environmental assessment are in preparation.
9. Avian predator control which will specifically address this and similar situations is included in a proposed animal control plan (in preparation).
10. Crows are not numerous on Holgate. They have been observed feeding on willet eggs. Also, see 9 above.
11. Rats are present, however, they have not been a major problem since 1975 when rat control was initiated. Rat predation has not been observed during the last two years.
12. Dogs are always a problem regardless of whether they walk in from nearby residences, accompany pedestrian visitors, or are carried in by vehicles or boats. Enforcement efforts have increased each year and will continue until the problem is reduced to an acceptable level. Additional signing will be implemented during 1987.
13. See item 4.
14. Public use at Little Beach Island is very low and most of that occurs at the extreme north and south ends.
15. The statement on nesting failure at Little Beach is incorrect. At the meeting held at refuge headquarters on October 13, 1986, the subject of Little Beach and production on that area was discussed. Production on Little Beach is low due to the fox population and probably to the dark color of the sand on much of the island. The low piping plover production on the island has been partly attributed to lack of nesting activity. Plover nest failure on Little Beach has not been documented. As indicated at the meeting and above, the island has been opened to trapping. The piping plovers prefers light color sands (Cairns, W.E. 1977. Breeding Biology and Behavior of Piping Plovers in southern Nova Scotia. M.S.C. Thesis. Dalhousie University, Halifax, Nova



Scotia. 115 pp.) and much of Little Beach has a dark grey to garnet color sand.

16. The seven items above were presented by Refuge Manager Beall at the October 13 meeting with Mr. Miller and others. The objective in presenting the information was to demonstrate that other activities that would benefit the beach nesting birds were being planned and implemented.
17. Reference item 4 above.
18. Coastal areas of New Jersey have been subjected to development and only a few areas of undeveloped beaches remain. As beach areas have been developed for housing and business the least terns, black skimmers, and piping plovers have been displaced into the best remaining habitats. Since OSVs are less disruptive than housing developments and businesses, displaced birds could move to Holgate and similar undeveloped area in spite of the presence of OSVs. OSVs have been displaced the same as the birds and are currently restricted to only a few beaches during the summer months.

Piping plovers and black skimmers do not exist on most beaches in New Jersey where OSVs operate during the summer months. Holgate is the largest and most notable exception. In regards to increases of these species at Holgate, existing data which covers the past twenty years does not provide evidence of an increase.

19. The EA has been changed to: "The most continuous source of disturbance was the passing OSVs. The colony relocated to a nearby area not previously used."
20. The use of vehicles to observe colonies of beach nesters is well documented. However, this may not be as applicable to piping plover, which is a solitary beach nester. The survey techniques used by the refuge staff are to determine pair territory and success. The actual discovery of the nest has not been the objective. Those nests found are monitored. The census techniques recommended by the piping plover recovery team are used in conjunction with the general bi-weekly census of the unit.
21. The sequence of OSVs absence and presence during 1986 does not provide any basis for valid research. OSVs were present at the establishment of nesting territories and again at the time of hatching. The presence of OSVs during the establishment of nesting territories may have substantially reduced the number of nesting attempts. The comparison as suggested in your comments would not address numerous questions such

as: how many of those plovers that showed up after the OSVs were excluded would have nested if the disturbance was reduced or what are OSVs impacts on piping plover food sources.

22. The least tern feeds primarily on live fish and the black skimmer feeds on fish and crustaceans that occur near the water surface. Neither routinely feed on the tidelands, beaches, or dunes. The piping plovers feed on marine worms, fly larvae, insects, crustaceans, mollusks, and other invertebrates. Hence, the feeding occurs on the tidelands, beach, and dunes. The tidelands are the preferred feeding area and the outgoing tide is the preferred time.

Refuge staff members observed more small crustaceans on the southern third of Holgate during the OSV closure than on the portion traveled by OSVs. These observations occurred about three weeks after the closure of the southern third was implemented.

1986 data indicates that there are two areas of the beach that the piping plovers did not routinely feed. One of these was a narrow section of beach with little nesting habitat and the other was near the south end where the OSVs congregated. The congregation of OSVs and fishermen at the south end had greater impact on the distribution of piping plover than the high pedestrian use on the north end. The better piping plover nesting habitat and feeding habitat is located on the southern half of the unit.

23. See "response to Tom Palam, The Long Island Beach Buggy Ass'n, Inc.".
24. The simple answer to this is that during the high tides associated with new and full moons, all of the area below MHW are covered. Hence, any vehicle on the beach at these high tides would be in the wilderness. The presence of vehicle tracks also would indicate that vehicles are operating on the wilderness area. Previous checks indicate that most OSVs operate in the wilderness area.
25. Volunteers are a valuable resource to the Fish and Wildlife Service and are utilized at the Edwin B. Forsythe National Wildlife Refuge. Currently, there are eight volunteers at Barnegat Division that aid with piping plover census, beach fencing, peregrine falcon observations, and collection of waterfowl harvest data. During the past two years, the division has recruited volunteers for the waterfowl harvest data collection. The division has had an adequate supply of volunteers for other activities without recruiting. Several members of the New Jersey Beach Buggy Association have been volunteers in previous years. These have served primarily as

a courtesy patrol for the surf fishermen with only a few activities benefiting wildlife and the refuge. One of these projects benefitting wildlife was the fencing; however, the staff has learned through experience that the fence installation is more efficient with a small crew, five to eight people. Additional assistance for the fencing project was declined. A beach cleanup scheduled for April, 1987, was rained out. Any member of the New Jersey Beach Buggy Association or similar organization who wishes to volunteer will be accepted and used where their skills will benefit the natural resources.

26. Your table is reconstructed here with some of the gaps filled and actual data provided.

	Fencing	Violations	Citations	Adult Plovers	Production
1984	1 1/4 miles	approx. 500	27 (a)	14 average	12
1985	2 miles	approx. 250	73 (a,b,)	12 average	6
1986	2 3/4 miles	approx. 200	110 (c)	20 average	14

- a) seasonals without law enforcement authority document the violations but did not issue citations.
- b) Additional law enforcement effort especially on weekends. Actual hours of effort were increased less than fifty percent above 1984.
- c) No significant decrease in violations plus citations was noted. Number of citations increased as a result of having a seasonal with law enforcement authority. Law enforcement effort by permanent staff was decreased.

The cause and effect relationship is more complex than that presented in the table. Other factors that are involved were noted in your letter and were addressed earlier in the response. In May, 1985, there was some flooding which may have impacted the piping plover production along with other impacts. Whatever the impact was, it occurred early in the nesting season, probably before the fence was installed and seasonal staff were on duty.

Your estimate of eight piping plovers fledging in 1986 is low. Our estimate was 14 fledged; however, the number fledged may actually be higher. Hence, the greater fencing and possibly the absence of OSVs in May appears to have resulted in an increased fledging rate.

27. Production or nesting success data was available in a raw form at time the draft environmental assessment was prepared. The analysis of the data was in progress during the comment period and has only recently been completed. The data collection for 1987 has already begun with the return of the piping plovers in mid-March.
28. Federal properties such as Holgate are excluded from the New Jersey Coastal Zone (New Jersey Coastal Management Program, Appendix B). The New Jersey Coastal Management Program may emphasize access to coastal areas for recreation but it also recognizes the value of prime wildlife habitat and the requirements of endangered/threatened species.





# United Mobile Sportfishermen, Inc.

## Member Organizations:

Assaleague Mobile Sportfishermen • Cape Hatteras Anglers Club • Cape Lookout Mobile Sportfishermen  
Delaware Mobile Sportfishermen • East End Anglers Club • Farragut Striper Club  
Great South Beach Mobile Sportfishermen • Happy Hookers Fishing Club • Hartford Surf Club • Long Island Beach Buggy Association  
Massachusetts Beach Buggy Association • Mobile Sportfishermen of Connecticut • Montauk Surfcasters Association  
Nags Head Fishing Club • New Jersey Beach Buggy Association • North Carolina Beach Buggy Association  
Rhode Island Mobile Sportfishermen • Thundermist Striper Club

## Affiliations:

National Coalition For Marine Conservation • National Outdoor Coalition • United Four Wheel Drive Associations

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David L. Beall  
Refuge Manager  
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PO Box 72, Great Creek Road  
Oceanville, N. J. 08231

November 17, 1986

Dear Mr. Beall,

These are our final comments on the draft EA for reduction of public use and OSV impacts at the Holgate Unit of the refuge. They supplement our letter of comment dated October 22, 1986.

We have received the considerable amount of material in the copies of the publications from you which were reviewed during preparation of the EA, with your letter of October 31. We appreciate the amount of work we have put you through to provide us copy. We thank you for your effort and patience. We have also received copy of the Preliminary Draft Recovery Plan for the Piping Plover from the Atlantic Coast Recovery Team Leader and the Regional Director's letter of Nov. 3 extending the comment deadline to Nov. 15. In Nov. 14 telecon with Mr. Wm. Ashe of the regional office, the comment deadline was extended to Wednesday, Nov. 19 for the enclosed comments.

I am not sure how I indicated that I had copy of the Buckley and Buckley 1976 guidelines; however I did not, but I have requested and received copy from the NPS, N. Atl. Region.

I was pleasantly surprised that almost every one of the recommendations/comments in our Oct. 22 letter were confirmed to be valid by the literature received.

We would like to make another suggestion which could be done in cooperation with NJBBA/Happy Hooks F.C.. It is to have an educational pamphlet prepared which describes the avian species of concern at Holgate, their needs and how visitors can interfere with survival including a list of do's and don't's. I believe they would be willing to pick up the printing costs if the pamphlet carries joint credits for U.S. F&WS, N. J. DEP and themselves. This could be another "Take Pride in America" initiative, funded by our affiliates and given out as a handout by the Town of Long Beach with OSV permits.

After review of the publications received from you and the other material, we found the following.

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MANAGER	MAINT
ASST MGR #1	BIO AID
ASST MGR #2	CLERK
ASST MGR #3	FILE
OUTDOOR REC PLAN	DISCARD

Representing all major over-sand surfishing vehicle organizations in the United States for the preservation of beach access and coastal resources.

There was a wealth of material on the birds arrival/departure, diet, propagation, disturbance and mortality so that we feel we can understand and appreciate management requirements beneficial to the birds.

They confirm our original conclusion (and B. Blodget's 1978/79) that disturbance and mortality from OSVs occur when they drive through nesting areas. When fenced as you have done and intend to continue, this source of problem is eliminated. It is noted that p. plover young move to the beachfront with adults upon fledging; hence tire ruts as a cause of mortality can not be a factor in mortality. None of the literature cite it as a factor and none of the mortality discussions in the host of literature even mention it as a consideration, thus confirming our original comments on this matter. This could only be a problem (if it is at all) for pre-fledged chicks who are driven from the nest site by intruders (visitor or official personnel) or predators, from whence they may become lost and prone to predation. The fencing has minimized visitor intrusion (and will further reduce it). Minimized intrusion by official personnel is in your control (further comment later).

We note that Blodget monitored a principal bayside mudflat area where immature p. plover adults (the loafers) fed and we believe this same type area would be a major feeding area at Holgate as the bayside habitat is similar and subject to less disturbance.

After review of Cochfeld (Differences in Behavioral response of Young Common Terns and Black Skimmers to Intrusion and Handling; Colonial Waterbirds, 1:47. 53 1981) we wonder why banding is allowed at all on a declining species considering the intense stress it causes initially and the possible irritation and infection it causes later. It seems that a principal reason for it is to determine site fidelity, which should be a well known trait by now. Surely it must be listed as a factor in nesting site abandonment and mortality. Buckley and Buckley (1976) observe that Atlantic and Gulf coast colonial birds have been banded so heavily that additional banding is not necessary, only analysis of existing data. That banding "expeditions" may be among the greatest causes of colony failure. We believe that you do not allow it at Holgate.

We note that Dinsmore (Piping Plover (Charadrius Melodius), from: Armbruster, J. S., ed. 1983. Impacts of coal surface mining on 25 migratory bird species of high Federal interest. U. S. F&WS. FWS/OBS-83/35) found successful p. plover nesting within 10 m of roads but were disturbed by pedestrian intrusion at vastly greater distances, confirming the original findings of Blodget. Even this tolerance is variable in heavily used areas which allowed for closer human proximity.

We also note that Dinsmore cites Buckley and Buckley (1976) who emphasized the need for more information on how various human recreational pursuits on beach areas can be managed to maximize p. plover productivity while still allowing humans to use the areas. We fully support this joint use philosophy and believe that the later Blodget study has helped to fill this information gap. Cairns and McLaren (American Birds, March 1980, pg 207) observed "Probably mere presence of people, within limits, does not effect reproductive success."

One of the two Long Island colonies studied by Cochfeld has been occupied annually for the past 25 years. It is very large and is situated between the roadways at Jones Beach West End bathing beach parking lot. It approximates Dinsmore's 10 m distance from a heavily traveled road (on both sides of the colony) and may in fact be the one he refers to. I am quite familiar with this colony.



We believe you have taken your preferred alternative regarding seasonal closure of the beach to OSV use from Buckley and Buckley (Guidelines for the Protection and Management of Colonially Nesting Waterbirds; Apr. 1976; NPS N. Atl. Region). We offer the following reasons why this is not a valid alternative.

- a. B&B caution the reader that their document must be regarded as preliminary and highly tentative.
- b. The B&B guidelines were prepared before the Blodgett findings were available (in 1978) which thoroughly researched effects of OSV disturbance. It is THE definitive study on these effects and it found that once fencing is installed it is not a factor on disturbance of the birds.
- c. The B&B guidelines list (pg23, para IIIA1c) the types of disturbances attributable to OSVs. Fencing and signing as proposed by you (and presently practiced) have very adequately eliminated these disturbances. (Further confirmed by B&B in Chapt. 1, para F)
- d. B&B fail to recognize that use of an OSV as a bird monitoring blind is a less stressful technique for this necessary function and omit recommending use of optics as Blodgett and others have suggested. Instead they recommend that official ORV use be the bare minimum and by omission only leave the option of pedestrian observers, which they and many others acknowledge are more upsetting to the birds than OSVs.
- e. In confirmation of Blodgett's findings that colonies acclimate to passing OSVs, other researchers (in the material you provided) have also stated this as a truth and the large colony at West End, Jones Beach, Long Island has annually attested to this as factual in this 25 year old colony.
- f. B&B acknowledge that the ideal conditions they recommend may not always be attainable. In view of the fact that there is no other access route to the prime fishing areas beyond the principal nesting sites (as there are at other areas; e.g. at Parker River NWR) we think that this is a legitimate exception at Holgate.
- g. B&B's recommendation for 1000 foot separation between colonies and visitors is so conservative in the extreme that it cannot be justified by the wealth of research data already available. It further maintains the same 1000 foot separation regardless of whether the visitor is in an OSV, on foot or on foot with dogs. Clearly this is an inconsistency that deviates from the findings of research. Yet it allows boardwalks and observation towers to be placed within 250 feet of active colonies.

With regard to B&B, while we agree with most of their recommendations, we find fault with it in some other respects besides that previously noted.

- a. For barrier beach habitat management, they only recommend "removal of detrimental exotic vegetation". We are sure you are aware that native (not exotic) vegetation is the main cause of habitat loss. The volumes of literature as well as the preliminary draft p. plover recovery plan all recommend vegetation control regardless of type where habitat loss is effecting nesting site suitability.
- b. We believe that predation regardless of whether caused by native or non-native predators must be controlled with respect to the p. plover and other declining species. The B&B distinction (eliminate non-native only) may be valid for unstressed species populations but can only lead to more listings under ESA if followed to the letter. We do not think anyone wants p. plovers to reach the straits of the California condor's status (which was also damaged by a banding and weighing attempt several years ago) before something is done about native predators. It seems ridiculous to us that there is an almost paranoid obsession with the minute effects of human activity but no concern with major impacts of mortality at Holgate and apparently a major factor at Little Beach Island suitability.
- c. Although I am reluctant to bring personalities into it, I personally believe that B&B's recommendations are exceedingly tainted with regard to OSVs because of the influence of one of the attendees at the meeting which crystallized most of the "ideas" expressed in their document. Although their document asked for public comment and criticism of it, it has not been seen by me until just this past week. We know of no others in the mobile sportfishing community who have seen this document either. Obviously we would have had something to say if given the opportunity. This organization and our Massachusetts affiliate is known to Mr. Buckley, however it would seem none



of us were provided copy so that our input could be sought. It would seem this may have been deliberate. The attendee I refer to is the individual who provided the facilities for the meeting place and is well known as an activist who is attempting to end mobile sportfishing access in Massachusetts. Her organization (and she directly) is a plaintiff in a suit pending in US District Court that is attempting to do just that (we and our Mass. affiliate are intervenors in the suit). The simple fact is that this person and those who share her outlook want coastal beaches exclusively for themselves as much as possible for their "solitude" and "wilderness experience". They want mobile sportfishermen barred. Obviously, any forum intended to generate ideas for management policies will be dominated toward one point of view if that is the only viewpoint heard and was the case with the B&B "ideas".

We appreciate the copy of "Suggested Guidelines for Conducting Piping Plover Nesting Survey; Atlantic Coast Piping Plover Recovery Team, March 1986". We think it and the Atlantic coast plover recovery plan are very sensible. The recovery plan notes that plovers used the intertidal lagoon more frequently for feeding in July and June and that some pairs moved their chicks from outer beach nesting territories to the lagoon side within 1-3 days of hatching. Obviously the bayside low wave environment is preferable for young chicks as well as for its low/no recreational use. It would seem that the barren overwash condition at Holgate should be maintained to facilitate this access to the bay. We also note that the recovery plan mentions that the plover nesting population has declined at Monomoy NWR due to increased herring and great black-backed gull colonies there. There was mobile sportfishing access there some 10-15 years ago, which was terminated at the instigation of the same group mentioned as influencing B&B's guidelines. There is little public use there now. It would be most ironic if the mobile sportfisherman's departure was the cause of Monomoy being converted into a gull sanctuary, and lost to the plover and least terns. We don't think the same fate would be desired at Holgate, but it just might. We suggest that the Chincoteague NWR approach is the proper one vis-a-vis that at Monomoy.

We think the recovery plan objective of 1200 nesting pairs (from present day 800) is modest and achievable and that Holgate can contribute if the recovery plan is sensibly applied.

Although we previously mentioned that we had a copy of the Holgate 1985 USF&WS Volunteer report, it was not until after our October 22 comments were sent in that we were able to study them in greater detail and in comparison to material you have provided. This report apparently is the source of EA data for 1985 with respect to bird populations, disturbances, and reproductive success/failure statistics at Holgate. It is very germane to the matter at hand; is the basis for determining what further management actions are needed by identifying the causes of reproductive failure. We have been unable to obtain copy of the 1986 Volunteers report.

We believe these annual reports are critical references which should be listed in the EA as the source of data substantiating recommended management actions.

I was not provided copy of any of these reports with the material received from you in response to my FOI request and am at a loss to understand why. Surely they are more pertinent than e.g.: Massey and Atwood on California least tern management. Our comments on the three species of concern follow:

#### Black Skimmers

We must take strong objection to the EA assertion (pg 5, 1st para.) that 1985 skimmer production was very low due to disturbance from OSVs passing the fringe of the colony, etc. 1985 production was a disaster but it can hardly be attributable to passing vehicles. Transient disturbance from entry into the main colony at the washover area by OSVs, pedestrians and especially dogs certainly could have been a contributor and must be controlled. We think your protective efforts (pg 7 of our Oct. 22 comments) has



effectively remedied this problem.

What was not assigned as a cause is the disturbance due to actions of investigators who entered the colony on foot for extended periods of time to gather data for the Volunteer's report. They conduct their activities in accordance with direction received from management and that activity must be recognized for what it does. We refer to Gochfeld; Safina and Burger and the Atlantic Coast piping plover recovery team guidelines for conducting plover nesting surveys.

Safina and Burger (Effects of human disturbance on reproductive success in the black skimmer; Condor 85:164-171, the Cooper Ornithological Society 1983) say "Disturbance by biologists has been deemed a major threat to seabirds because their activities have caused desertion and mortality of eggs and young (Nisbet 1978, Shreiber 1979)."

Gochfeld has this to say: "compared with other sources of disturbance, that caused by investigators is probably the most prolonged and usually the most intense."

In contrast to the short-term transient disturbance of visitor entry into the skimmer colony, in just three of the censusing entries into the colony in 1985, there were 20.9 manhours of disturbance. On these three occasions, the census team must have appeared as a predatory mob to the skimmers who were kept off their nests and deserted their chicks for these extended periods. The 1985 data indicates that there was other census entry as well as twice a week census taking.

Surely it must be recognized that censusing and monitoring are a major cause of 1985 skimmer failure. While Galli (The Colonial Waterbirds of New Jersey, Summer 1979, NJ DEP, Div. of Fish Game and Wildlife, Endangered Species Project) found there were 85 black skimmers at Holgate in 1979, the F&WS Volunteer's report found 350-450 in 1985. Can anyone honestly say that the year-round mobile sportfishing access at Holgate in the intervening six year period has adversely effected this constantly growing and thriving population which has tripled or quadrupled in the interval?

We do not know how many years the 1985 censusing procedures have been used at Holgate, or if they were followed again in 1986. It is very apparent to us that Blodgett and the recovery team guidelines for surveys must be taken seriously lest official conduct be the cause of repeated reproductive failure and driving the remaining population from Holgate.

The data indicates that there are diminishing incidents of transient visitor entry into nesting areas and they will continue to decline under existing controls. Management action is now needed to direct a change in census techniques with a decision on the acknowledged gull predation. We again restate that the Volunteer data is essential and we find no fault with the field personnel conducting the surveys; or the need for the data. We do conclude that redirection from your office is essential. We also think you should consider whether barring OSVs might induce an unexpected result that might precipitate a decline due to increased predation or other unknown consequences. In any event, the adage "if it works, don't fix it" is appropriate; you don't argue with success and the six year growth is tremendous success, with OSV presence.

#### Least Terns

Galli found 160 adults at Holgate in 1979. The 1985 Volunteer's report showed 300 in 1985; an approximate doubling of the nesting population in this six year period. Our comments for black skimmers apply to l. terns as well. Gull predation was estimated to have caused loss of 82% of all l. tern eggs and of those that hatched, 92% were estimated to have been lost to this predation. The situation was out of control and this prospering colony is in jeopardy of being lost due to this cause. No reasonable person would conclude that mobile sportfishermen had anything to do with this equally disastrous failure. In absence of 1986 data we can only hope that at a minimum, the volunteer recommendation (pg 33 of the 1985 report) was acted upon.

### Piping plovers

Unfortunately Galli only surveyed colonial waterbirds so there is no 1979 data for p. plover comparisons. Our October 22 comments adequately covered this threatened species and our black skimmer comments are applicable to p. plover survey procedures.

Galli mentions the need for a federal program to control rats at Holgate (which we previously mentioned and she confirms) which apparently has been a known problem but which we are unaware of F&WS actions to remedy. The 1985 Volunteer report also refers to them (but not having been observed that year) which indicates an awareness of the problem by them.

### Maintenance of habitat suitability

Galli, the plover recovery plan, Dinsmore and others consistently mention habitat management and the need for considering action to retard vegetative succession in order to keep areas open, or to expand them (our Oct. 22 comments covered this). She claims that succession is the second major cause of nesting site loss for least terns. Cairns and McLaren speculate that p. plovers may be subject to short-term and long-term changes in "carrying capacity" of its breeding range. J.E. Evans (The Nature Conservancy, Midwest Reg. Off., piping plover 85-01-11 update) cites Wilcox (1959) as noting the natural progression of beach vegetation and the effect on plover nesting habitat. That following the 1938 hurricane on Long Island that leveled dunes and produced expanded habitat, the plover numbers subsequently increased and then decreased in following years as beach grass colonized dune areas; thus lending credibility to Cairns and McLaren's beliefs. The p. plover recovery plan gives this post-1938 hurricane increase from 20 pairs in 1938 to 64 in 1941 for this Long Island area. This would appear to indicate a need of a program at Holgate to supplement maintenance of habitat suitability (rather than encouragement of beach grass succession to promote dune formation on the "fragile" barrier island) during intervals between major overwash events that maintain the barren overwash condition.

Concluding our comments we find:

1. Our October 22 comments were valid and we stay with them.
2. There is no basis for seasonal or permanent OSV closure for mobile sportfishing access (and such an action just might have other unforeseen consequences), the data simply does not support it. A reasonable corridor on the beach as at Chincoteague NWR is indicated.
3. Habitat maintenance to prevent loss from vegetative succession should be considered to keep existing nesting areas suitable and to even expand them.
4. Control of native and non-native predators is essential.
5. A change in bird survey and monitoring techniques is mandatory.
6. Alternative B (enforcement of current regulations) as modified by our October 22 recommendations is indicated.

Sincerely,

*William E. Miller*  
William E. Miller

Response to William E. Miller, United Mobile Sport Fishermen Inc., letter of November 17, 1986.

1. The probability of a chick becoming trapped in a tire rut has decreased with the fencing; however, it is still an existing threat to the chicks that inhabit the beach area.
2. Banding has not occurred at Holgate during recent breeding seasons.
3. This paragraph implies that the presence of beach buggies was sufficient disturbance to keep the gulls in check. Is that disturbance specific to gulls?
4. The draft environmental assessment stated "The field observation records of the refuge staff were used extensively in the preparation of this assessment." The 1985 volunteer report was a compilation of the 1985 data. In regard to your query of why these reports were not provided, your request clearly stated "recent publications on management of beach nesting birds and impact of disturbance on beach nesting birds".
5. There were five censuses of black skimmers and three of least terns that involved the surveyors entering the colony along transect lines to count nests, eggs, and young. The surveyors move as quickly as possible while collecting the data. The censuses did not involve disturbance to the colonies for extended periods of time. As the surveyors moved through the colonies, the individual birds were only off the nest for a few minutes. All other censuses were made from outside the colonies without any disturbance. Hence, it is not "recognized that censusing and monitoring are a major cause of 1985 skimmer failure".
6. The same Galli report also contained a column of data for 1976 which indicated 782 adult nesting black skimmers. The colony which tripled or quadrupled during the six year interval also declined eighty percent during a three year period when beach OSVs were present. The refuge has documentation of black skimmers nesting on the unit dating back to 1955, prior to its inclusion into the refuge.

The 1985 Volunteer Report documented four cases of vehicles entering the black skimmer colony including one that caused marked destruction, ie. destruction of nest and eggs.

7. The poor success of least tern colony in 1985 was not attributed to OSVs.
8. The rat control program at Holgate was discussed at the October 13, 1986, meeting. Rat predation has not been a significant problem since 1975 when the control was initiated and has not been observed during the past two years. Rat control is an annual activity.

- 9 Overwashes will continue to occur during hurricanes and northeasters. These coastal storms have historically retarded vegetation succession.

"Piping plovers along the Atlantic Coast nest on coastal beaches above the high tide line, sand flats at the ends of sand spit and barrier islands, gently sloping foredunes, blowout areas behind primary dunes, and washover areas cut into or between dunes. They may also nest on areas where suitable dredge spoil has been deposited. Nest sites are relatively flat with substrates ranging from fine sand to mixture of sand, shells, pebbles, or cobble. Nests occur most commonly at sites with little or no vegetation, but may be found in moderately-dense stands of beachgrass (*Ammophila breviligulata*)." (Dyer, R.W., A. Hecht, C. Raithel, K. Terwilliger, and S. Melvin. 1987. Draft Atlantic Coast Piping Plover Recovery Plan. Region 5, U.S. Fish and Wildlife Service. 81 pp.)





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OCT 17 1986

*The Long Island Beach Buggy Ass'n, Inc.*

XX  
PO Box 799, Middle Island, N.Y. 11953

David L. Beall  
Refuge Manager  
Edwin B. Forsythe National Wildlife Refuge  
PO Box 72, Great Creek Road  
Oceanville, NJ 08231

October 12, 1986

Dear Mr. Beall,

We have received copy of your Draft Environmental Assessment on reduction of public use and Over-the-Sand vehicle impacts at the Holgate Unit of Forsythe NWR.

After review of it, we have concluded that the proposed action isn't supportable by the facts presented. Accordingly, we believe Alternative B, the Minimum Action alternative as discussed below is most appropriate.

It seems to us that the solution to reduced OSV impact is to begin to issue citations for appearance before a court of law for those who violate the conditions of their permit. It has been most effective elsewhere and we see no reason why it won't bring the same results at Holgate. The assessment notes that only notices have been issued to these culprits, we think it is time to get serious with them. In addition, an agreement with the Town of Long Beach and the State would provide additional protection if it provided for revocation of the offenders permit upon conviction, with loss of eligibility for another for a number of years thereafter. Publicity for these convictions would have a positive effect on other potential malactors. This would put the burden and penalty for such misconduct on the offender rather than the great majority of permittees who are law abiding citizens who conduct themselves responsibly (both pedestrians and OSV operators) and who wish merely for access to the point to enjoy the sportfishing opportunities at the refuge.

With regard to the piping plover and other beach nesting birds; we and most of our sister organizations in the other coastal States have had some experience with this matter and recognize this legitimate concern. We have found that signed and fenced nesting areas have provided ample protection so that people and mobile sportfishermen can live in harmony with them. We are aware of a study at Cape Cod National Seashore on this matter which found that these birds are considerably more tolerant of passing DSVs than they are of pedestrians, and that presence of dogs will create panic in the entire colony. We believe this is the cause of the black skimmer nesting site abandonment mentioned in the assessment. Also the assessment mentions a problem from boaters but fails to mention a solution for it or for domestic animals being on the refuge.

We know of atleast two coastal areas where piping plovers are present (one on Long Island) where posting and fencing protection provided satisfactory protection for them from man, so that man could continue to benefit using his coastal environment alongwith the birds. We cannot and do not know they fared from predators such as gulls, rats, cats, skunk and crows, etc. We suspect this may be a problem at your refuge also, however the assessment did not discuss it. There thus seems to be a serious gap in the total protection strategy for the plover and others.

We agree that mean high water is a difficult thing to identify, especially on dynamic coastal beaches such as at Holgate. Much of the beach that was there in August is gone in March, but will be back next August.

As you may know, some authorities designate the beach vegetation line as mean high water. There is an initiative underway in Rhode Island to adopt this definition. Obviously from your standpoint this would not protect the birds and would generally place them out of your jurisdiction, complicating your attempts to protect them which we do support.

Fortunately during most of the nesting season the beach is at its widest and thus pedestrians and OSVs are usually most removed from the birds than would occur in other seasons. When nesting is over and the young are flying, we think it matters little that pedestrians or OSVs are on the beach. Most plovers will then be feeding at the bayside tidelands rather than the ocean beach if they are even still in the area.

We think there is a sensible solution to this dilemma that would be satisfactory to all parties concerned. We do not think the U.S. Fish and Wildlife Service would consciously set out on a course that requires diversion of already scarce funds to periodically contract for studies and surveys to establish location of this fluid line and to then become involved in a lawsuit they could have avoided in order to have the District Court confirm or deny it; although that might be inferred from the assessment.

We suggest that the solution is to identify a reasonably permanent location of mean high water; and that the winter beach, say in March is the time of the year to get together with representatives of N.J. Beach Buggy Association and together designate an agreeable location for mean high water. Then drive stakes at intervals along the beach and consider that any OSVs operating landward of this line are driving on the refuge wilderness in violation of federal law and appropriately cite them. This could occur next March before the birds again return.

Because of the acknowledged difficulty in reaching a line determination we think you will agree that reasonable men would allow you some discretion and latitude in locating it. That latitude when used to locate the line conservatively (from your viewpoint) as your assessment might be taken to imply (Section II.B.) can provide for safe transit for mobile sportfishermen traveling to the point; thus allowing for continued public enjoyment of the fishery resources available at the refuge. We feel that the State of New Jersey will accept such a

decision. It may over the years require a repeat of the on-the-ground line designation as shoreline changes occur, but will be without the recurring costs or litigation.

Of course, if for philosophical (rather than resource) reasons there is an intent to reduce or eliminate mobile sportfishing access, then there is a serious problem. In that event the LIBBA will support our sister association, the NJBBA in whatever course of action they decide to pursue. We know their officers, board of directors and membership are responsible Americans and you will not find better. Recently NJBBA was the recipient of a prestigious conservation award from the National Wildlife Federation and we believe their conservation credentials are impeccable. If agreement cannot be reached with them then we are all in serious trouble.

We recommend that you recognize this fact and begin a dialogue so that a mutually satisfactory and cooperative solution can be found rather than what appears to be an adversarial situation at present. Section V of the assessment indicates that this has not happened.

Sincerely,

*Tom Palam*  
Tom Palam  
President



Response to Tom Palam, Long Island Beach Buggy Ass'n., Inc.

1. The seasonal biological technicians, who do not have law enforcement authority, document the observed violations but do not issue citations. In 1986, one biological technician position was replaced with a temporary law enforcement position and the number of citations went up fifty percent with a small decline in observed violations occurring.
2. Observations on the behavior of least terns and black skimmers are not directly applicable to piping plovers. Skimmers and terns nest in colonies while plovers are more solitary. Skimmers and terns feed on food caught while on the wing while plovers feed along the tidelands, beaches, and dunes. Skimmers and terns feed primarily on fish. Plovers feed on insects, crustaceans, mollusks, and other invertebrates. Piping plover chicks are very precocial and by the time they are a week old most of their time is spent in feeding. Tern and skimmer chicks are fed by parents until fledging. The territory for a pair of piping plovers generally extends from the nesting area to the water edge.
3. See responses 8-14 to Miller's October 22 comments.
4. Accepting the beach vegetation as the mean high water line is unacceptable from both legal and biological positions.
5. The solution as proposed is not consistent with the wilderness designation nor the Service policy on off-the-road vehicles. The level of protection for the migratory birds and endangered species would be less than that in place in 1986. For additional information see response 1 to Miller's October 22 comments.



P.O. BOX 186  
COLLINGSWOOD, NJ 08108

32 Years Dedicated to the Preservation  
of Beach Access for Mobile Surf Fishing and  
the Conservation of Coastal and Marine Resources

Member  
NJ STATE FEDERATION OF SPORTSMEN'S CLUBS  
ASSOCIATION OF SURF ANGLING CLUBS  
UNITED MOBILE SPORTSMEN  
STRIPERS UNLIMITED  
JERSEY COAST ANGLERS ASSOC.

October 31, 1986

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Ronald L. Woods

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Edward Kamp  
Tom Knapp  
Jim Simpkins  
George Tippenhauer  
Henry Twardus

David Beall  
Refuge Manager  
Edwin B. Forsythe National Wildlife Refuge  
P. O. Box 72, Great Creek Road  
Oceanville, New Jersey 08231

Dear Mr. Beall,

In review of a copy of the Draft Environmental Assessment on the reduction of public use and restriction of over-the-sand vehicles which you prepared for the Holgate unit of the Edwin B. Forsythe National Wildlife refuge, it is our feeling that the actions proposed cannot be supported by the facts that are presented.

We believe that alternative B (Enforce Current Regulations), if actively enforced, would obtain the desired results and enable mobile sportfishermen to continue to pursue their recreational enjoyment. The other alternatives offered would either limit or eliminate the use of this needed and greatly utilized resource.

Our reference to actively enforce current regulations stems from our awareness of many serious violations, unacted upon, made by non-fishermen or more precisely, off-roaders who are either ignorant of the regulations or completely uncaring. It's our belief that the park service should stringently enforce the regulations and prosecute all violators. As an association of responsible mobile sportfishermen, we would support and, if possible, aid in the campaign.

In regard to the Nesting Birds mentioned in the E. A., we feel that although Responsible Planning must take place to insure the survival of these species, we must also keep in mind the importance of the recreational use of the coastal resource by man. It is our contention that both outcomes can be met through means such as fencing and posting of areas and proper enforcement of them. It must also be taken into account that the majority of the loss of Nesting Birds is due to natural predators found throughout the refuge. This problem must also be appressed to insure the safety of these nesting birds' young.

The New Jersey Beach Buggy Association is dedicated to the preservation of beach access for mobile surf fishing and would most certainly fight, to the fullest, any attempt to reduce or eliminate access to the Holgate unit. When the alternative solutions mentioned have not been acted upon.

We ask for your cooperation in reaching a solution which is acceptable to all of the concerned.

Dedicated to Responsible Beach Access,

*Ronald L. Woods*  
Ronald L. Woods  
President

cc: Robert E. Lick, N.J. Marine Fisheries Council  
Herb Bateman, NJBBA Courtesy Patrol Chairman  
NJBBA File

RLW/cal



33 Years Dedicated to the Preservation  
of Beach Access for Mobile Surf Fishing and  
the Conservation of Coastal and Marine Resources

P.O. BOX 186  
COLLINGSWOOD, NJ 08108

Member  
NJ STATE FEDERATION OF SPORTSMEN'S CLUBS  
ASSOCIATION OF SURF ANGLING CLUBS  
UNITED MOBILE SPORTFISHERMEN INC.  
STRIPERS UNLIMITED  
JERSEY COAST ANGLERS ASSOC.

March 24, 1987

**President Emeritus**

M. Jeffries Paul

**President**

Ronald L. Woods

**1st Vice President**

Jack Delmar

**2nd Vice President**

Raymond P. Mullen

**Treasurer**

Herbert W. Bateman III

**Membership Secretary**

Bruce C. Allen

**Recording Secretary**

Chris Delmar

**Directors**

Carl Astorino

Frank Collura

Bob Flade

Jim Gatto

Tom Hoyte

Edward Kamp

Tom Knapp

Connie McGinnis

Ron Patten

George Tippenhauer

Henry Twardus

David L. Beall, Refuge Manager

Edwin B. Forsythe National

Wildlife Refuge

P.O. Box 72

Oceanville, New Jersey 08231

Dear Mr. Beall,

I wish to thank you for your time in meeting with NJBBA member George Finley and myself on March 19<sup>th</sup>. I believe that the meeting was quite successful in demonstrating ours and your interest in working together to insure the successful nesting of the piping plovers, least terns, and black skimmers. During our discussion, I feel that we all discovered many solutions which would be acceptable to both parties and allow these species of birds and surf fishermen to exist in the same environment.

We were pleased at your offer to adopt a proposal made by the New Jersey Beach Buggy Association as a fifth alternative to the Environmental Assessment. In our proposal, we have included the points which we discussed in your office on March 19<sup>th</sup> and feel that the outcome of the proposed alternative will serve to satisfy the posed problem and provide a means by which we all can live. We are confident that you will agree with our proposal.

The New Jersey Beach Buggy Association has always been a leader in conservation and has volunteered many hours of service to the Holgate Unit. We now ask for your support in working with us to adopt a fair solution with optimum success.

Dedicated to responsible access,

Ronald L. Woods  
President



The following proposal is made and endorsed by the New Jersey Beach Buggy Association as an alternative solution for the presentation in the Environmental Assessment for the Holgate Unit of the Edwin B. Forsythe National Wildlife Refuge.

E. Restrictive Use - Proposed by the New Jersey Beach Buggy Association

1. An annual refuge-use fee to be collected by the Refuge Management to support the enforcement of regulations at the Holgate Unit. A portion of up to 25% of this fee to be allotted to the development and dissemination of educational materials (films, slides, seminars, etc.) to increase the environmental awareness of the users of the Holgate Unit and other groups as the Refuge Management see fit.
2. Between the dates of April 15<sup>th</sup> and August 15<sup>th</sup> there will be no ingress or egress two hours before low tide and for two hours after low tide.
3. Between the dates of April 15<sup>th</sup> and August 15<sup>th</sup> vehicles on the beach within the northern boundry and 7300 feet south of said boundry will not move during specified low tide times. Vehicles south of the defined area may move but may not enter into this area.
4. No vehicle headlights or bright lights will be permitted from dusk to dawn between the date of April 15<sup>th</sup> to October 1<sup>st</sup>.
5. Vehicle operators on the beach between midnight and 4:00 A.M. must be actively engaged in fishing. There will be no overnight sleeping on the beach.
6. Beginning in 1988 Wildlife Permits will be issued only to those operators displaying fishing equipment deemed acceptable to the Refuge Management.

cc: William Horn, Assistant Secretary for Fish, Wildlife, and Parks  
Howard Larson  
William Ashe  
George Gavutis  
Russell Cookingham, Director of New Jersey Division of  
Fish Game, and Wildlife  
Bob Lick, New Jersey Marine Fisheries Council  
Bill Miller, United Mobile Sportfishermen  
Conrad Smith, United Mobile Sportfishermen  
George Trotman, Long Beach Island Fishing Club  
NJBBA File

Response to Ronald L. Wood, President, New Jersey Beach Buggy Association letter of March 24, 1987.

1. The proposed actions recommended have been incorporated into Alternative B, not a fifth alternative.
2. The restrictions, as proposed, would permit movement on the southern third of the unit at all tide levels. This area is adjacent to prime piping plover nesting habitat. These tidelands are used by feeding piping plovers.

NOV 14 1986

# LONG BEACH ISLAND FISHING CLUB

P. O. BOX 327

HARVEY CEDARS, NEW JERSEY 08008



MANAGER  
ASST MGR #1  
ASST MGR #2  
ASST MGR #3  
OUTDOOR REC PLANI

MAINTN  
BIO AIDE  
CLERK  
FILE  
DISCARD

November 11, 1986

Mr. David Beall, Refuge Manager  
Edwin B. Forsythe National Wildlife Refuge  
P.O. Box 72, Great Creek Road  
Oceanville, N.J. 08231

Dear Mr. Beall:

The Long Beach Island Fishing Club is pleased to provide the following comments regarding the Draft Environmental Assessment which proposes to restrict the operation of over-the-sand vehicles (OSV) at the Holgate Unit of the Edwin B. Forsythe National Wildlife Refuge.

These comments are voiced by a 350 member, 43 year old surf fishing club of Long Beach Island. Our purposes are focused on fellowship, sportsmanship, and conservation. We have been in the forefront in influencing current environmental issues including the elimination of striped bass from Long Beach Island fishing tournaments.

Many of our Club members drive over-the-sand vehicles and have fished the surf at Holgate for decades. This southern tip of our island has and continues to be one of New Jersey's truly prime surf fishing locations. The remoteness of Holgate's Southern tip necessitates the use of OSV's. The accouterments of surf fishing (rods, boots, bait, tackle, and - hopefully - the catch), preclude fishing on the Holgate beach without an over-the-sand vehicle.

The Environmental Assessment's statements citing the lack of nesting success of the piping plover, the black skimmer, and the least tern are distressing and worthy of action. Equally alarming are the numerous infractions, also cited therein. Conversely, upon review of the United Mobile Sportsfishermen's interim comments, the Environmental Assessment's case for restricting the operation of OSV's is far from convincing. The United Mobile Sportsfishermen raise numerous issues and concerns which should be thoroughly addressed before concluding that the use of OSV's is a contributing cause of nesting failures and restricting OSV use at Holgate. Their concerns include:

1. The precedent for the issuance of OSV permits to only mobile sportsfishermen at the Parker River NWR and at the New Jersey Island Beach State Park.



2. The possible enhancement of Little Beach Island as a prime habitat for shore nesting birds.

3. The findings of a National Park Service funded study which concluded that, compared to pedestrians on the beach, off the road vehicles were a relatively unimportant source of alarm to terns.

4. The impact of carnivorous predators (including: foxes, gulls, crows, rats, dogs, and cats) on the loss of protected avian species.

5. The credibility of the "tire rut" senario as a cause of chick mortality.

Without belaboring these points, in our opinion, they collectively make it quite clear that numerous issues relating to the nesting failures at Holgate are not adequately addressed in the Environmental Assessment. Recognizing that the National Wildlife Refuge's objectives focus on the preservation and management of wildlife habitats to benefit endangered species the need for requisite actions to reduce the mortality of shore nesting birds is equally clear. Regretfully, the Environmental Assessment, without comprehensive evaluation, jumps to the conclusion that restriction OSV use will significantly reduce Holgate nesting failures.

The Long Beach Island Fishing Club disagrees with the proposal to restrict the operation of over-the-sand vehicles at Holgate in the strongest terms. The case has not been made that over-the-sand vehicles use has been a significant factor in the mortality of endangered, shore nesting birds. The Long Beach Island Fishing Club has and will continue to be sensitive to our environment but we will not quietly observe the loss of one of the two outstanding surf fishing sites on Long Beach Island without appropriate cause.

We recommend a more thorough examination of Holgate nesting failures and public hearings on this most important matter before Holgate over-the-sand vehicle restrictions are considered.

Sincerely



Owen P. Moran  
President LBIFC

Response to Owen P. Moran, Long Beach Island Fishing Club.

1. See Miller letter of October 22 response 2.
2. See Miller letter of October 22 response 8 and 15.
3. Both vehicles and pedestrians are sources of disturbances address in the EA.
4. See Miller letter of October 22 response 8, 9, 10, 11, and 12.
5. See Miller letter of October 22 response 7.



# Citizens Concerned for Seacoast Management, Inc.

P.O. Box 682  
North Eastham, Massachusetts 02651

November 13, 1986

## FOUNDERS

Kerry Adams

Marty Allen

Thomas Bell

Kenneth Eldredge

Joel Fox

Vincent Guaglianone

Paul Hoercher

Thomas Olson

Mary Paget

Carol Pavao

Heidi Pavao

Ronald Pavao

Dana Pazolt

Susan Pazolt

Mike Perel

George Purrrman

Anton Stetzko Sr.

Helen Stetzko

Steve Weber

Daniel Woods

Mr. David Beall, Refuge Mgr.  
National Wildlife Refuge  
P.O. Box 72  
Great Creek Road,  
Oceanville, N.J. 08231

Dear Mr. Beall,

We feel, in regard to the Draft Environmental Assessment which you prepared for the Holgate Unit of the Edwin B. Forsythe National Wildlife Refuge, for the restriction of over sand vehicles cannot be supported by the facts which are presented.

Enclosed is a geological, biological and physical and user conflict study performed by the Department of Interior, which clearly states that no geological or environmental damage by use of over sand vehicles exists on our seashores, (Cape Cod National Seashore).

We also feel that Alternative B of the Draft, (Enforce Current Regulations), should be actively acted upon.

Sincerely,  
By Orders of Founders

*Anton Stetzko Sr.*  
ANTON STETZKO SR..  
TREASURER-CCSM, INC.

Enc.  
Interior Report

CC: N.J. B.B. Assoc.

MANAGER	MAINT
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ASST MGR	FILE
GUIDANCE REL	DISCARD

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"For the protection of seacoast environments and the preservation of human rights"

Response to Anton Stetzko SR, Citizens Concerned for Seacoast Management, Inc.

1. We cannot find anything in the enclosed report that states nor reaches the conclusion "---- that no geological or environmental damage by use of over sand vehicles exist on our seashores----"



# THE FUND FOR ANIMALS INC.

200 WEST 57th STREET • NEW YORK, N.Y. 10019  
Telephone: (212) 246-2096 / (212) 246-2632

Reply to: 7-01 Fifteenth St., Fair Lawn, NJ 07410

Edward Walsh, Jr.  
Legal Counsel

September 30, 1986

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Mr. David Beall, Refuge Manager  
Edwin B. Forsythe National Wildlife Refuge  
P. O. Box 72, Great Creek Road  
Oceanville, N. J. 08231

Dear Mr. Beall,

Thank you for the opportunity to review the Draft Environmental Assessment concerning the reduction of public use and over-the-sand vehicle impacts at the Holgate unit of the refuge.

As you may know, we have been an active supporter of New Jersey's Endangered and Non-game Species Program since its inception. As a result, we are familiar with the status and the plight of the piping plover, least tern and black skimmer. As a general principle, we would support almost any action resulting in the protection of habitat critical to these species. Consequently, we totally reject the "No Action" and "Minimum Action" alternatives described in the assessment.

After reviewing the remaining two alternatives, we favor obtaining riparian rights and restricting all public use. According to law and policy, the service is well within its authority to close the area entirely. The species you are seeking to protect have had the worst of it for a long time. It's about time we afforded them maximum opportunity to replenish their numbers. We realize enforcement of this alternative would be considerable for several years but the public would adjust. Perhaps a permit system for special uses could be developed. In any event, we believe the service should go forward with this alternative.

The other alternative, while not our recommendation, would be acceptable. It affords more protection of nesting and feeding habitat for the birds while further restricting public use. We still see a major enforcement effort at the outset but we're certain the service will be prepared for that. Our only suggestion would be to eliminate the word "possibly" from the third line on page 7. Closing piping plover feeding areas to pedestrians during nesting season is critical in giving the birds maximum opportunity to feed.

We commend the service for taking positive action to resolve this important issue. We ask that you let us know if we can be of assistance in your efforts to bring it to a satisfactory conclusion.

Sincerely,

Richard C. Kenly

MANAGER

ASST MGR #1

ASST MGR #2

ASST MGR #3

OUTDOOR REC PLAN.

MAINT

BIO AIDE

CLERK

FILE

DISCARD

cc:Cleveland Amory

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OCT 03 1986

Response to Richard C. Kenley, The Fund for Animals, Inc.

1. See Miller letter of October 22 response 4.

NOV 14 1986

MAINTENANCE  
- ASST MGR #1  
- ASST MGR #2  
- ASST MGR #3  
- OUTDOOR REC PLAN

MAINTENANCE  
- BIO AID  
- CLERK  
- FILE  
- DISCARD

Michael Hatalowsky  
611 Adams St.  
Riverside, N.J. 08075  
November 11, 1986

Dear Mr. Beall;

I am writing this letter in reference to your position on the Holgate Unit, of the E. B. Foraythe National Wildlife Refuge.

I have fished on Holgate on and off for the past 40 years, and enjoyed it tremendously. I have been driving a 4 wheeler on the beaches for the past 25 years to fish in New Jersey and also out of the state.

I get a lot of relaxation from being on the beach away from the crowds. At night you can see stars that you never knew existed. The peace and solitude I receive from being at places like Holgate, away from the bustle of people always in a hurry. It is difficult to put down on paper how one feels.

I read the Burlington County Times dated 10-12-86, you made a statement that people abused the privilege of being on Holgate. I cannot deny that some of the abuses do occur, but I hope and pray that all of us would not suffer for the mistakes of a few individuals who disregard rules that are set up for the protection of all human living things, animals and plant life.

Mr. Beall I hope you reconsider your position, and come up with a plan that would be beneficial to all that enjoy Holgate, plus the wildlife and the dunes



I am 62 years of age, 40% disabled,  
WWII Veteran with a back problem.  
I cannot walk to far and I believe there are  
other Senior Citizens that feel as I do concerning  
Holgate.

If there is something I personally can  
do to help educate the people on protecting  
the environment and the wildlife on it, I  
would be glad to do so.

Hoping to hear from you on this issue

I remain

Respectfully

Michael Hatala

Oct. 19, 1986

I'm the SECOND GENERATION BEACH BUGGY  
SURF FISHERMAN. I'D LIKE TO MAKE IT 3 GENERATIONS.  
YOUR PROPOSAL TO CLOSE THE BEACH IS TOTALLY  
& UNFAIR TO FISHERMAN OF TODAY AND TOMORROW. I SUPPORT  
THE PRESERVATION OF WILDLIFE BUT I ALSO WOULD LIKE  
TO PRESERVE THE SPORTSMAN. BOTH CAN WORK TOGETHER.  
IT HAS FOR AT LEAST THE LAST THIRTY YEARS HERE  
AT HOLGATE.

DON'T CLOSE HOLGATE! NO TO YOUR  
PROPOSAL.

JAMES ROBERT GATTO  
574 B WILLOW TURN  
MOUNT LAUREL NJ  
08054

RECEIVED  
OCT 21 1986

RECEIVED  
OCT 22 1986

MAIL ROOM  
BIO AIDE  
CLERK  
FILE  
DISCARD

Oct. 17, 1986

Dear Mr. Beall,

Having just read your proposal/environmental assessment to close the beaches at Holgate, I am very upset that as a public servant you did not attempt to consult those who frequent the beaches of Holgate before you issued this proposal. I am sure that there could have been a meeting of the minds to alleviate and curtail the problems at the Wildlife preserve at Holgate.

As an O.S.V. operator/fisherman, your proposal/assessment is totally inaccurate and unacceptable to myself as with other O.S.V. operator/fishermen.

I take this opposition as it jeopardizes my opportunity to relax and surf fish on the beach. I am a handicapped person and cannot indulge in any physical activities except to surf fish which allows me to use only my upper body and arms. To walk on the sand is an ordeal - To drive my vehicle to the beach to exactly where I want to fish eliminates unnecessary walking in the sand. There are several physical handicapped persons on the beaches at Holgate who rely on their O.S.V. to pursue their activity on the beach. We are not asking for sympathy - we seek sympathy.

Holgate must remain opened to O.S.V./fishermen in order that the conscientious operators can enjoy the Great outdoors at Holgate.

Sincerely,  
Gene Nakata



*friends of animals, inc.*

Administrative offices: 1 Pine Street, Neptune, N.J. 07753 • (201) 922-2600

September 29, 1986

David L. Beall, Refuge Manager  
Brigantine Division  
Edwin B. Forsythe National Wildlife Refuge  
PO Box 72  
Oceanville, N.J. 08231

Re: Ban on Public Use at Holgate Section of Refuge

Dear Mr. Beall,

We congratulate you on the Draft Environmental Assessment, long overdue in protection of the shore and wildlife.

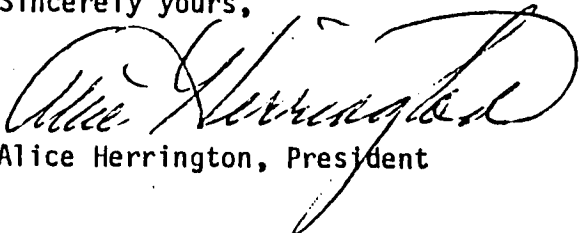
In all conscience, for the benefit of both the people and the wildlife, you have no alternative but to obtain riparian rights and ban absolutely human entry to these lands.

It is, of course, as you point out in all draft alternative actions, essential to ban OSVs (over the sand vehicles). But it is equally essential to ban the human foot and all other human devices and actions.

Your assessment touched much too lightly on the fragile nature of the dunes on these barrier lands. We believe you will readily convince the public and the Township of Long Beach to the advisability of absolute protection for these dunes if you will simply request that they visit a New Jersey area from Asbury Park to Seabright. The effect of public trampling of the dunes has resulted there in total loss of beach sand, the erection of a sea wall to hold back the ocean - a wall which cost multi-millions and fails to function.

Without question, what happens to wildlife also happens to humans. If the piping plover loses its home grounds at Holgate, it will not be long before the people adjacent to that area lose their homes as well.

Sincerely yours,

  
Alice Herrington, President

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OCT 01 1986

MANAGER  
ASST MGR #1  
ASST MGR #2  
ASST MGR #3  
OUTDOOR REG PLAN.

MANAGER  
RIO AIDE  
CLERK  
FILE  
RECORD

Thomas Becker  
59-6 Lake Champlain Dr.  
Tuckerton, N.J. 08087

November 11, 1986

Dear Sir:

I am strongly in favor of the proposal that would prohibit over-the-sand vehicles on the refuge and on the tidelands of the Holgate Unit of the Forsythe National Wildlife Refuge during the nesting season.

In view of the alarming rate of habitat loss for nesting migratory birds, refuges are more critical to the survival of these birds each year. As you know the Holgate Unit itself has suffered physical losses to the forces of nature in recent years, putting vehicular traffic closer and closer to the traditional nesting areas. If the prime function of this land is to provide habitat for wildlife, then we must defer to wildlife when it has been shown that our activities are significantly detrimental to them. I am also of the opinion that vehicular traffic itself is a destabilizing force that contributes to the erosion of the refuge.

I am a long-time resident of this area who has put in hundreds of miles of walking on that beach. I appreciate the wildness and wildlife I find there. It has been a refuge for me too. I am more than willing to restrict my foot traffic during nesting season, so surely drivers could live with this proposed restriction. If we are not willing to take this measure to preserve the wildlife there then we may as well pave it.

Sincerely,

*Thomas Becker*  
Thomas Becker